P

114-668

Vol. 1.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~632~~ ~~357~~ 46

CALVIN AMORY STEVENS AND JOHN T. TERRY
Appellants,
vs.
THE NASHVILLE AND NORTH WESTERN RAILROAD COMPANY AND THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF TENNESSEE.

FILED OCTOBER 8, 1881.

UNITED STATES SUPREME COURT.

No.

Calvin Amory Stevens and **John T. Terry**, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Nashville and Northwestern Railroad Company,

vs.

The Nashville and Northwestern Railroad Company and **The Nashville, Chattanooga and St. Louis Railway Company.**

TRANSCRIPT OF RECORD.

Appeal from the Circuit Court of the United States, Sixth Judicial Circuit, Middle District of Tennessee.

INDEX.

Bill 1
  Act to establish a system of Internal Improvements 4
  Exhibit B. Act of Feb. 8, 1854, to amend Internal Improvement act 33
    Act of Feb. 17th, 1854 36
    Act of January 19th, 1855 36
  Exhibit C. Bond 37
  " D. Act authorizing sale of State interest in railroads 38
    Act to amend above act 40
    Act to enable Commissioners to perfect sale 43
Answer 45
Replication 64
Petition of John T. Terry to be made a co-complainant 66
Order making Terry a co-complainant 69

	Original.	Copy.
Amendments to bill	71	71
Answer to Amended Bill	73	75
Answer and Cross Bill of Charles Burkhardt and others	85	87
Exhibit No. 1. List of Complainants	129	131
" No. 2. Mortgage to Adrian Iselin, Wilson and Stevenson	130	133
" No. 3. Resolution appointing Commissioners to settle with L. & N. Railroad	149	131
" No. 4. Settlement with L. & N. R. R. Co.	150	162
" No. 5. State of bonds issued by State to railroads	153	155
Answer to Cross Bill	158	161
Replication	161	165
Opinion of Judge Withey	163	167
Decree	183	186
Supersedeas Bond	186	191
Deposition of C. A. Stevens	193	199
Exhibit No. 1. Form of assent	291	297
" No. 2. Circular to bondholders	291	297
" No. 3. " "	292	290
" No. 4. Notice of resting of case	293	299
Deposition of C. A. Stevens	297	305
Compls. Ex. No. 1. Letter from Bosher to Stevens	327	335
" " No. 2. " " "	329	337
" " No. 3. Petition of Bondholders	328	338
" " No. 4. Bell vs. E. T. & Va. R. R. Co.	337	345
" " No. 5. Deposition of N. W. Mocheral before Legislative Investigating Committee	354	362
" " No. 6. Deposition of M. C. Gallaway before same	356	364
" " No. 7. Extract from cash book of Calvin Stevens	360	368
" " No. 8. Letter of S. Watson to *N. Y. Times*	360	368
Deposition of C. A. Stevens	374	383
Compls. Ex. No. 1. Proof of Bonds	387	395
Resps. Ex. No. 1. Letter of Stevens to Gov. Porter	392	401
" " No. 2. " " " "	393	402
Proof of Bonds	394	403
Deposition of Eugene Kelly	398	411
Compls. Ex. No. 1. Proof of Bonds	404	416
Resps. Ex. No. 1. Form of assent	409	422
" " No. 2. Circular of Committee	410	423
" " No. 3. List of bonds owned by Kelly	417	430
Deposition of John T. Terry	418	435
Compls. Ex. No. 1. Proof of Bonds	431	448
" " No. 2. " "	435	452
Resps. Ex. No. 1. List of bonds bought and sold	438	455

	Original.	Copy.
Resp. Ex. No. 2. List of bonds bought and sold	439	456
" " No. 3. Form of assent	444	461
" " No. 4. Circular of Committee	445	463
Proof of Bonds in W. & A. case	452	469
" " in N. & N. W. case	455	477
" " in N. & C. case	459	485
" " in McM. & M. case	462	489
Deposition of Peter Geddes	466	497
Compls. Ex. No. 1. Proof of Bonds	481	511
Resps. Ex. No. 1. Letter of bondholders to Gov. Porter		
" " No. 2. Letter to Gov. Porter		
" " No. 3. Letter of Geddes to Gaines	493	524
" " No. 4. " " "	495	526
" " No. 5. " " "	496	527
" " No. 6. " " "	499	530
" " No. 7. Form of assent	500	533
" " No. 8. Circular of Committee	501	534
Deposition of George Arents	508	539
Exhibit No. 1. Statement of bonds issued before the war.	514	545
Deposition of Ed. Baxter	520	551
" W. H. Osborn	524	555
Exhibit No. 1. Mortgage of Chicago, St. Louis & N. O. R. R. Co.	539	570
Exhibit No. 2. Transfer of Gov. Porter	587	618
Deposition of Dempsey Weaver	590	621
" A. S. Marks	593	625
" R. T. Wilson	596	629
Resps. Ex. No. 1. Mortgage of E. T., V. & G. R. R. Co.	613	646
" No. 2. " K. & O. R. R. Co.	639	672
" No. 3. List of Railroads that retired their debts	656	689
Compls. Ex. No. 1. Mortgage of Mobile & Ohio R. R.	658	691
Deposition of Richard T. Wilson	671	705
Compls. Ex. No. 1. Opinion of Charles Tracey	737	771
" No. 2. Agreement between Wilson, E. T., V. & G. R. R. Co. and 4th National Bank of N. Y.	739	773
Compls. Ex. No. 3. Letter from Wilson to Jacques	745	779
" No. 4. Bond retiring acct.	749	783
" No. 5. Correspondence between Wilson and Iselin	756	788
Compls. Ex. No. 7. Letter from Wilson to Terry	762	796
" No. 8. Statement M. & O.	767	802
Resps. Ex. No. 1. Advertisement	767	803
" No. 2. Receipts of Sinking Fund Comm'rs.	768	804
" No. 3. State Loan	771	807
" No. 4. Receipts	772	808
Deposition of John C. Brown	776	813

	Original.	Copy.
Deposition of Maney Bell	781	819
" S. R. Cruse	796	835
" John S. Claybroke	798	837
" R. C. Jackson	818	857
" John J. Craig	823	863
" Campbell Wallace	826	867
Exhibit No. 1. Receipt of Sinking Fund Commissioners	841	882
" No. 2. " " " "	842	883
" No. 3. " " " "	842	883
" No. 4. " " " "	843	884
" No. 5. " " " "	843	884
" No. 6. " " " "	844	885
Deposition of Neill S. Brown	846	887
" Columbus Powell	848	889
" Albert Roberts	853	895
" D. B. Cliffe	854	897
" Joseph W. Drexel	858	901
" Vernon K. Stevenson	866	909
" J. G. M. Ramsey	883	927
" B. O. White	885	929
" John M. Fleming	888	933
" Ira P. Jones		941
Deposition of James D. Porter	902	947
Exhibit No. 1. Message of Gov. Porter	924	969
" No. 2. Letter of Bondholders to Gov. Porter	950	995
" No. 3. Message of Gov. Porter	956	1001
" No. 4. " " "	968	1013
" No. 5. Letter from Geddes to Gaines	974	1019
" No. 6. " " " "	976	1021
" No. 7. " " " "	977	1022
" No. 8. " " " "	979	1024
" No. 9. " " " Porter	980	1025
" No. 10. Telegram from Iselin & others to Porter	983	1028
" No. 11. Letter from Stevens to Porter	983	1028
" No. 12. Notice to Bondholders	985	1030
" No. 13. Letter to Porter from Stevens	989	1034
" No. 14. Letter from Porter to Stevens	996	1041
" No. 15. " " " Manning	997	1042
" No. 16. Assent of Inman Swan and Manning	999	1044
" No. 17. Letter from Manning to Porter	999	1045
" No. 18. " " " "	1000	1045
" No. 19. Transfer of Gov. Porter of debt	1001	1046
" No. 20. Letter from Stevens to Porter	1004	1049
Deposition of James D. Porter	1007	1053
Exhibit A. Letter from Bondholders to Porter	1013	1059
" B. Message of Gov. Porter	1014	1060

	Original.	Copy.
Exhibit C. Extract from Message	1026	1072
Deposition of M. T. Polk	1028	1075
" James L. Gaines	1031	1079
Exhibit A. Copy of Hermitage Bond	1037	1085
" B. " Agricultural Bureau Bond	1038	1086
" C. Bond issued to M. C. & L. R. R. Co	1039	1087
Deposition of James L. Gaines	1041	1089
" Charles J. McKinney	1059	1107
" Perez Dickenson	1069	1111
" Adrian Iselin	1064	1113
Exhibit No. 1. Mortgage of M. & C. R. R. Co	1080	1129
" 2. " M. & C. R. R. Co	1132	1181
" 3. Certificate of State Treasurer	1182	1239
Deposition of Morris K. Jessup	1196	1253
" Thomas Dewey	1201	1259
" James P. Wallace	1206	1265
" James A. Roosevelt	1212	1271
" J. W. Thomas	1216	1275
" H. L. Claiborne	1221	1281
" G. W. Seay	1230	1291
" Wm. Morrow	1233	1295
" Saml. Tate	1237	1299
Railroad Receipts, McMinville & Manchester	1243	1305
" Nashville & North Western	1250	1313
" Winchester & Alabama	1275	1339
" Nashville & Chattanooga	1286	1351
Stipulation as to record	1291	1357
Agreement between Baxter and Andrews	1295	1361
Agreement between Hoadly and Matthews	1320	1387
Complainant's Compilation. Replication	1346	1413
Railroad Receipts	1347	1414
Act to establish a system of Internal Improvements	1367	1437
Act to authorize Renewal of certain Bonds	1382	1442
Act of Feb. 8, to amend Internal Improvement Act	1385	1445
Act to amend Charter of Memphis & Somerville Turnpike Co.	1390	1450
Act of Jan. 19, 1855, to amend Internal Improvement Act	1390	1450
Act to aid in Construction of Railroad from Chattanooga to E. T. V. & G. R. R.	1392	1462
Act to provide for Equilization of Sinking Fund	1398	1468
Act for Relief of Railroad Companies	1401	1471
Act to Establish a State Bank, etc.	1407	1477
Act of Jan. 26, 1869, to amend Internal Improvement Act	1428	1498
Act of Nov. 28, 1865, " " " "	1429	1499
Act to fix time for Act of Nov 28, 1865, to take effect	1433	1503
Act of Jan. 18, 1866, to amend Internal Improvement Act	1434	1504
Act of Feb. 18, 1867, to amend Act of Nov. 28, 1865	1437	1507

	Original.	Copy.
Act to Liquidate State Debt	1438	1508
Act to change mode of Appointing Receivers	1441	1511
Act directing Suits to be brought in Name of State	1444	1514
Act to Charter Chattanooga, Blue Spring & Cleveland R. R. Co.	1448	1518
Act for Benefit of Rogersville & Jefferson R. R. Co	1452	1522
Act to amend Act Establishing State Agricultural Bureau	1455	1525
Act to regulate appointment of State Directors	1460	1530
Act for Relief of Nashville & Decatur Railroad Co	1462	1532
Act to Fund Floating Debt of State	1464	1534
Act to amend Act to Fund Floating Debt	1466	1536
Act to Amend Charter of the Memphis & Charleston R. R. Co.	1466	1536
Act of Dec. 7, 1867, to amend Internal Improvement Act	1467	1537
Act to aid the E. T. & Ga. R. R.	1471	1541
Report of Comptroller Dunlap	1474	1544
Act to Liquidate State Debt	1480	1550
Act for Payment of State Debt	1485	1555
Comptroller's Report, Oct., 1869	1486	1556
" "	1489	1559
Act to authorize Issue of Bonds to E. T. & Va. R. R. Co	1491	1561
Act to encourage Retirement of State Debt	1498	1568
Act to Incorporate Nashville, Franklin & Columbia R. R	1499	1569
Act relating to Louisville & Nashville R. R. Co.	1500	1570
Article III. of Tennessee Code	1506	1576
Constitutional Provisions	1511	1581
Act to Provide a Remedy for Individuals	1513	1583
Sec. 2807 of Code of 1858	1514	1584
Act to Pay Current Expenses of General Assembly	1514	1584
Constitution of 1870	1515	1585
Act to Enforce Sec. 33, Article II. of Constitution	1518	1588
Act to Protect State from Suits	1519	1589
Journal of Convention, 1834	1520	1590
Constitution of Tennessee, Article XI	1520	1590
Message of Gov. Jones, Oct. 19, 1841	1522	1592
" " 1845	1523	1593
" Gov. Brownlow, 1868	1524	1594
Report of Agent of Tennessee	1531	1601
Report of Joint Select Committee	1534	1604
Circular of State Agent	1534	1604
List of Railroads that have paid interest and those that have not,	1542	1612
Memorial of Shelby County	1548	1618
House Journal, Oct. 14, 1851	1548	1618
Senate Journal, Oct. 13, 1851	1559	1629
Governor's Message, 1853–4	1574	1644
Comptroller's Report, Oct., 1853	1575	1645
Comptroller's Report, Jan. 15, 1854	1576	1646
Senate Journal, 1853–4	1578	1648

	Original.	Copy.
House Journal, 1853–4	1866	16
House Journal, 1855–6	1589	1659
Senate Journal, 1855–6	1592	1662
Message of Gov. Johnson	1593	1663
Comptroller's Report for 1857	1596	1666
Report of Commissioner of Roads	1599	1669
Report of Joint Select Committee and amount of Bonds loaned and amount Interest paid	1601	1671
Report of Isham G. Harris	1608	1678
Message of Gov. Harris, Oct. 5, 1859	1610	1680
Comptroller's Report of 1859	1617	1687
Messenger of Gov. Harris, Jan. 16, 1861	1625	1695
Comptroller's Report, Oct., 1861	1627	1697
Gov. Brownlow's Message, April 6, 1865	1630	1700
Report of Comptroller Fowler, May, 1865	1634	1704
" " Hatchell, Oct., 1865	1635	1705
Message of Gov. Brownlow, Oct. 8, 1867	1639	1709
Report of Comptroller Blackburn, 1867	1640	1710
" " "	1641	1711
Message of Gov. Brownlow, 1868	1642	1712
" " "	1643	1713
Report of Comptroller Blackburn	1645	1715
House Appendix, 1868–9	1647	1717
Report of Comptroller Blackburn, Oct. 6, 1869	1660	1730
Message of Gov. Senter, Oct. 13, 1869	1661	1731
Senate Journal, 1868–9	1662	1732
Report of Committee on Internal Improvement	1667	1737
House Journal, 1869–70	1671	1741
Senate Journal 1869–70	1674	1744
Report of Commissioners appointed to sell State's interest in Railroads	1683	1753
House Journal, 1870–71	1690	1760
Message of Gov. Brown, 1871	1697	1767
Comptroller's Report, Oct., 1871	1698	1768
Governor's Message, 1879	1698	1769
Request to Associate Jndge	1715	1785
Notice to defendants to serve answers to motions	1717	1787
Amendments to prayer to bill	1719	1789
Order to Marshal for adjournment	1720	1790
Order assigning time for hearing	1721	1791
Renewed offers to admit answers	1722	1792
Supplemental answer of N. & D. R. R. Co	1724	1794
Answer of N. & D. R. R. Co. petition, filed by Stevens	1734	1804
Petition of Standiford McGhee and others	1739	1809
Supplemental answer of N. & D. R. R. Co	1741	1811
Notice and admission of supplemental answer	1752	1822

	Original.	Copy.
Bill to Systematize Railroad Sinking Fund	1757	1827
Act to incorporate Nashville & Northwestern R. R. Co	1768	1839
Bill of Edgefield & Kentucky R. R. Co	1785	1857
Remarks of Supreme Court in Merian vs. Duncan	1788	1860
Bill to authorize issue of bonds to E. T. & V. R. R. Co	1794	1866
Proceedings of Davidson County Court	1815	1887
Certificate of condition of cash in State treasury	1822	1895
Stipulation of E. L. Andrews and Evarts, Southmayd & Choate as to prices of State bonds after January 1, 1870	1823	1897
Order of Secretary Stanton	1832	1907
Report of Judiciary Committee, Wisener, chairman, Feby. 19, 1869, and Senate and House Journal	1835	1911

RESPONDENTS COMPILATION.

Act of January 2, 1830, to establish a Board of Internal Improvements etc	1863	1943
Tennessee Constitution of 1834, Art. II., Sec. 9	1866	1946
Act of February 19, 1836, to encourage Internal Improvements	1867	1947
Act of January 19, 1838, to establish a State Bank, etc	1869	1949
Act of January 26, 1838, supplementary to last act	1891	1971
Act of January 25, 1840, to repeal all laws authorizing the Governor to subscribe for stock, etc	1897	1977
Act of January 28, 1840, to provide for the collection of demands due the State, etc	1906	1986
Act of February 5, 1842, directing Internal Improvements books to be transferred from Secretary of State to Comptroller	1908	1988
Resolution of December 27th, 1843, authorizing Board of Internal Improvements to compromise with Murfreesboro, M. & W. T. P. Co	1911	1991
Act of January 27th, 1844, authorizing Bank of Tennessee to draw upon State Treasurer in case of deficiency	1912	1992
Act of January 30, 1844, for collection of State's dividends on its stock in Internal Improvements	1018	1993
Act to appoint commissioners to investigate Internal Improvement companies	1916	1996
Resolution of January 23, 1846, requesting Attorney General to sue delinquent companies	1918	1998
Act of February 2, 1846, to incorporate the Memphis and Charleston R. R. Co	1919	1999
Act of January 25, 1850, to give further time to McM. & C. T P. Co., etc	1920	2000
Act of February 25, 1852, to amend an act to incorporate the N. & M. F. T. P. Co., etc	1921	2001

	Original.	Copy.
Act of February 4, 1848, to amend an act entitled an act to authorize Hopkins and others to open a turnpike, etc	1922	2002
Act of February 8, 1854, to amend an act passed February 11, 1852, entitled "an act to establish a system of Internal Improvements," etc	1925	2005
Act of January 30, 1850, to charter the Owens & Winstead T.P. Co., etc	1926	2006
MS. copy of Senate Bill, No. 186, to encourage a system of Internal Improvements, together with entries on Journal	1930	2010
Extract from Message of Gov. N. S. Brown, October 5, 1849	1973	2053
Extract from Message of Gov. Wm. Trousdale, October 22, 1849	1978	2058
Act of February 9, 1850, to relieve the Bank of Tennessee, to purchase State Bonds, etc	1982	2062
Extract from Message of Gov. Wm. Trousdale, October 9, 1851	1984	2064
Extract from Message of Gov. Wm. Campbell, October 28, 1851	1987	2067
Extract from Comptroller Crozier's report on total State liabilities, October, 1851	1993	2073
Act of January 15, 1852, to authorize the Governor to issue State bonds to E. T. & Va. R. Co., to build bridges	1993	2073
MS. copy of Act of January 15, 1852, with history of its passage, from the Public Journals	2000	2080
Act of February 11, 1852, to establish a system of Internal Improvements	2049	2127
MS. Copy of foregoing, with history of its passage	2065	2146
Act of February 21, 1852, authorizing renewal of certain State bonds	2096	2177
Code of Tennessee, secs. 209–212, as to Comptroller's duties	2096	2177
Code of Tennessee, secs. 194, 197, sub secs. 18 and 19, as to duties of Secretary of State	2097	2178
Act of February 26, 1852, to charter the Chattanooga, B. S. & C. R. R. Co	2098	2179
Act of February 8, 1854, to amend Internal Improvement act of February 11, 1852	2099	2180
Act of February 17, 1854, to amend charter of M. & S. T.P. Co. etc	2104	2185
Act of October 29, 1855, to amend 2d sec. of above act of February 8, 1854.	2104	2185
Act of November 26, 1855, to amend Internal Improvement act of February 11, 1852	2105	2186
Act of November 27, 1855, to extend time for receiving State aid by L & N. R. R. Co	2107	2187
Act of January 19, 1856, to amend Internal Improvement acts of 1852 and 1854	2109	2190
Act of January 30, 1856, explanatory of 16th sec. of Internal Improvement Act of February 11, 1852	2111	2192

	Original.	Copy.
Act of February 18, 1856, to amend an act to establish an Agricultural Bureau, etc.	2112	2193
Act of February 21, 1856, to aid in constructing a railroad from Chattanooga to the E. T. & Ga. R.R., etc.	2117	2198
Act of February 26, 1856, amending act chartering So. West R. R. Co., etc.	2123	2204
Act of February 29, 1856, to regulate and define the duties of Road Commissioners	2127	2207
Code of Tennessee—provisions of, as to Internal Improvements	2129	2209
Report of Internal Improvement Committee, November 4, 1857	2135	2217
Act of March 17, 1858, authorizing surplus bonds to be applied to the construction of the road	2138	2218
Extract from Message of Gov. Johnson, of October 6, 1857, on the subject of the Bank of Tennessee	2138	2220
Extract from Report of J. T. Dunlap, Comptroller, of October, 1859, on the subject of State debt, etc.	2140	2222
Extract from Report of J. T. Dunlap, Comptroller, of October, 1859, on subject of bonds and coupons	2143	2225
Extract from Report of J. T. Dunlap, Comptroller, of October, 1859, on subject of Sinking Fund for Railroads	2146	2228
Extract from Message of Gov. Isham G. Harris, October 4, 1859, on Liabilities of the State	2150	2232
Act of March 20, 1860, to provide for the equalization, etc., of the Sinking Fund on State bonds issued to railroads	2155	2237
Message of Gov. Isham G. Harris, January 16, 1861, recommending suspension of Sinking Fund, etc.	2158	2238
Extract from Report of J. T. Dunlap, Comptroller, January 22, 1861, upon the subject of the State paying interest on bonds in case of defaulting railroad companies	2160	2242
Act of February 1, 1861, for the relief of railroad companies, receivers, and others	2161	2243
Act of May 7, 1861, to amend the railroad laws	2162	2244
Act of July 1, 1861, authorizing Bank of Tennessee to receive and pay out Confederate money	2162	2244
Extracts from Report of J. T. Dunlap, Comptroller, October, 1861, on subject of interest due from railroad companies	2163	2248
Extracts from Message of Gov. Wm. G. Brownlow, Apr. 6, 1865	2166	2254
Joint Resolution of May 5, 1865, appointing commissioners to settle with L. & N. R. R. Co	2170	2252
Settlement with Louisville & Nashville Railroad Co., made and reported November 18, 1865	2171	2253
Joint Resolution appointing a committee to examine into the condition of the Sinking Fund	2174	2256
Act of November 28, 1865, amending Internal Improvement act of February 11, 1852	2175	2257

	Original.	Copy.
Act of January 18, 1866, amending Internal Improvement act of February 11, 1852	2178	2260
Act of May 24, 1866, incorporating the Tennessee and Pacific Railroad Co., etc	2181	2263
Act of December 10, 1866, amending Internal Improvement act of January 18, 1866	2182	2264
Act of February 18, 1867, amending Internal Improvement act of November 23, 1865	2185	2267
Act of March 7, 1867, amending charter of M. & C. R.R. Co., etc.	2185	2267
Extract of Message of Gov. Wm. G. Brownlow, on railroads	2188	2270
Extract from Report of Comptroller Blackburn, October 1, 1867	2189	2271
Act of December 7, 1867, to amend Internal Improvement act of February 11, 1852	2195	2277
Act of December 13, 1867, relating to railroad receivers	2199	2281
Act of February 5, 1868, defining powers of State Directors in railroad companies	2200	2282
Act of March 13, 1868, to liquidate the State debt	2203	2285
Extract from Comptroller Blackburn's Report, August 6, 1868.	2205	2287
Extract from Message of Gov. Wm. G. Brownlow, on railroads.	2225	2307
Act of January 26, 1869, to amend Internal Improvement act of February 11, 1852	2227	2309
Act of January 28, 1869, to replete the number of directors in railroad companies	2228	2310
Act of February 25, 1869, to liquidate the State's railroad debt.	2229	2311
Act of October 26, 1869, to change mode of appointing receivers	2234	2316
Act of December 8, 1869, to repeal all laws granting State aid to Internal Improvements	2236	2318
Act of December 9, 1869 (private), to confirm lease of N. & N. W. R. R. by N. & C. R. R. Co	2237	2319
Act of December 16, 1869, to amend sec. 1102 of Code, etc.	2244	2326
Act of January 20, 1870, for the payment of the State debt	2247	2329
Extract from House Journal, showing amendments to above original act	2249	2331
Act of February 4, 1870, to regulate the appointment of State directors in railroad companies	2250	2332
Act of February 22, 1870, for the relief of the N. & D. R. R. Co.	2252	2334
Act of February 24, 1870, to fund the floating debt of the State,	2252	2334
Act of June 30, 1870, to amend an act to regulate the appointment of State directors	2255	2337
Act of July 1, 1870, authorizing the sale and transfer of the State's interest in delinquent railroad companies	2255	2337
Act of July 7, 1870, for the releif of solvent railroads that have paid interest on their bonds	2259	2341
Act of July 7, 1870, to enforce sec. 33, art. 2, of the Constitution,	2260	2342
Act of July 8, 1870, appointing commissioners to lease delinquent railroads	2261	2343

	Original.	Copy.
Act of July 8, 1870, directing Attorney General to institute suit against receivers	2263	2345
Act of December 16, 1870, to amend act of February 24, 1870, to fund the floating debt of the State	2265	2347
Report of State Railroad Commissioners	2265	2347
Act of December 21, 1870, to amend the act of July 1, 1870, for the sale of the State's interest in delinquent railroad Companies	2273	2355
Act of January 18, 1871, directing suits to be brought against railroad companies that have fraudulently obtained State bonds	2279	2361
Act of February 1, 1871, to provide for the purchase of railroads by the State	2283	2365
Act of February 1, 1871, to amend acts for the sale of the State's interest in railroads	2284	2366
Act of February 2, 1871, to encourage the retirement of the State debt incurred from State railroad bonds	2286	2368
Act of November 9, 1871, providing for the consolidation of railroad companies and the issuance of bonds afterwards	2288	2370
Act of November 17, 1871, providing for the cancellation of bonds etc	2290	2372
Act of December 11, 1871, granting certain powers to existing railroad companies	2291	2373
Act of December 13, 1871, enabling railroad companies to pay their debt to the State, and complete their roads	2293	2375
Extracts from Message of Gov. Jno. C. Brown, 1871	2295	2377
Code of Tennessee, secs. 2030, (sub. sec. 7,) 2075	2299	2381
Constitution of 1834, art 11, sec, 7	2300	2382
Constitution of 1834, art. 1, sec. 17	2300	2382
Act of February 28, 1856, providing a remedy in favor of private individuals against the State	2301	2383
Code of Tennessee, sec. 2807, relating to suits against the State	2302	2384
Act of June 10, 1865, repealing above section	2302	2384
Act of February 21, 1873	2302	2384
Code, sec. 1758, statute of frauds	2304	2386
Act of 1851, of State of Missouri, to expedite the construction of the Pacific Railroad, and of the Hannibal and St. Joseph railroad	2305	2387
MS. copy of act of July 22, 1857, of State of Minnesota, to execute the trust created by an act of Congress, entitled "an act making a grant of land to the Territory of Minnesota, etc., to aid in the construction of a certain railroad in that State."	2311	2393
Bill to change the name of the Root River Valley and Southern Minnesota Railroad Company	2350	2432
Minnesota State Constitution, art 9, sec. 10	2351	2433

	Original.	Copy.
MS. copy of Minnesota State bond	2356	2438
MS. copy of South Minnesota Railroad Company mortgage	2357	2439
Act of South Carolina of December 20, 1856, to aid in construction of the Charleston and Savannah Railroad	2364	2446
Act of United States of July 1, 1862, to charter the Union and Pacific Railroad Company	2368	2450
Report of Joint Select Committee of Tennessee Legislature upon the offices of Comptroller and Secretary of State	2389	2471
Index to Respondent's Compilation	2413	2495
Statement of bonds from Gaines' report of 1879	2424	2510
Exhibit X of Respondents	2479	2561
Bill	2480	2562
Order of Publication	2415	2596
Answer of Nashville & N. W. R. R. Co.	2517	2599
Answer of John A. Gardner	2518	2600
Demurrer of County of Davidson	2523	2605
Decree, March 17, 1871	2528	2610
" " "	2529	2611
" " 3, "	2530	2612
Affidavit of W. B. Reese	2531	2613
Decree, March 18, 1871	2532	2614
Answer of Nashville & Chattanooga R. R. Co.	2532	2614
Exhibit B, to answer, and Exhibit A	2534	2616
Decree, April 15, 1871	2541	2623
Amended Bill of State	2543	2625
Order of publication	2552	2634
Answer of D. Weaver	2556	2638
Demurrer of Lewis B. Parsons	2557	2639
" A. H. Hicks	2559	2641
Decree	2564	2646
" July 7, 1871	2568	2650
Answer of Lewis B. Parsons	2570	2652
" Davidson County	2573	2655
Deposition of Wilbur Foster	2578	2660
" James Whiteworth	2578	2660
Decree	2580	2662
Petition	2586	2668
Fiat of O. P. Nicholson	2589	2671
Bond	2590	2672
Decree, December, 1871	2591	2673
Exhibit A, Report of Commissioners	2595	2677
Resolution of Commissioners	2599	2681
Exhibit C, Notice	2602	2684
Exhibit B, Bond	2603	2685
Decree	2606	2688
Circuit Clerk's Certificate	2607	2689

Robert Clarke & Co., Printers, Cincinnati. [*Jan.*, 1879.

United States Circuit Court.

Sixth Judicial Circuit, Middle District of Tennessee.

IN EQUITY.

Calvin Amory Stevens, on behalf of the Holders of Internal Improvement Bonds of Tennessee, issued to the Nashville and Northwestern Railroad Company,

versus

The Nashville and Northwestern Railroad Company et al.,

BILL FOR RELIEF.

E. L. ANDREWS and
GEORGE HOADLY,
Solicitors, and of Counsel for Complainant.

United States Circuit Court,

Sixth Judicial Circuit, Middle District of Tennessee.

IN EQUITY.

To the Honorable, the Judges of the Circuit Court of the United States for the Sixth Judicial Circuit and Middle District of Tennessee.

Your orator, Calvin Amory Stevens, who is a citizen of the State of New York, brings this, his bill of complaint, against the Nashville and Northwestern Railroad Company, and the Nashville, Chattanooga and St. Louis Railroad Company, which are citizens of the State of Tennessee, and corporations organized, existing, and transacting business in said State by virtue of, and under, an act of the General Assembly of said State.

And thereupon your orator, complaining, shows unto your Honors that he brings this bill of complaint, as well on behalf of all other holders of the Internal Improvement bonds issued by the State of Tennessee to the Nashville and Northwestern Railroad Company, who may join in the prosecution of this suit and contribute to the expenses thereof, as on his own behalf as a holder of said bonds.

Your orator shows that the Nashville and Northwestern Railroad Company is a body, politic and corporate, chartered by acts of the General Assembly of the State of Tennessee. The object and purpose of the creation of said corporation was the construction, completion, and, thereafter the operation and management of a line of railway for the transportation of passengers and freight from the city of Nashville, in the State of Tennessee, through the territory of the State of Tennessee, to a point on the Mississippi river in Obion county.

For this purpose powers were granted to said corporation, as are declared in the several charters and acts of incorporation. The said corporation was authorized to borrow money for the purposes of the enterprise. It was likewise authorized to impose liens and execute mortgages upon its property to provide for, and insure the payment of, its liabilities.

Your orator makes part of this, his bill of complaint, the said several charters and acts, with their several amendments, passed by the legislature of Tennessee, and attaches copies thereof, marked Exhibit A.

Your orator shows that the General Assembly of the State of Tennessee, by an act, passed the 11th of February, in the year 1852, determined to lend to the railroad companies within said State, and specified in said act, the aid of its credit, for the completion of their several lines of railway.

The plan of that legislation was that each railroad company should procure a certain amount of *bona fide* subscriptions for its capital stock, and that it should have graded, bridged, and ready for the reception of rails, a certain number of miles of its road. By means of these preliminary requirements, assurance was obtained that each railroad company would be competent to fulfill the obligations it was to incur under the statute hereinafter set forth. The period of four years was allowed for the completion of each section of a road, the first section being required to be thirty, and the others twenty miles in length. The act proceeds to authorize and give validity to bonds of the State, which the governor was required to issue to each company. The amounts of the bonds were to be ascertained by the length of each railroad within the State, and the proceeds of the bonds were to be exclusively applied to the payment of the railroad iron, and equipments of the road to which they were issued. The president of each railroad company, assisted by a commissioner appointed by the governor, was to negotiate the sale of the bonds issued to his company. The act was made a public law for all purposes of notice, and a system of numbering was adopted for distinguishing each bond, and identifying the company to which it was issued. The tenor of the act which gave existence to the bonds, was, that each company became liable upon, and bound to perform, the obligations contained in, and represented by, the bonds loaned to it. Each company was to pay, from its own means, the interest upon the bonds loaned to it, as the same matured from time to time, and also to pay and discharge the principal debt, as it was expressed upon said bonds, when the same matured.

Your orator shows that the sale of the said bonds was to be the means of raising the money requisite for completing the superstructure, laying the rails, and providing the equipment of the roads. The bonds loaned to each company were to be payable in such places in the United States as its president might designate. In order to insure the said sale, and make a market for said bonds, and to create confidence in the public, and on the part of persons to whom said bonds might be offered for sale, and who might become the purchasers of the same, that each company would punctually pay the principal and interest of the bonds loaned to it, or, in case of its failure, that ample security should be provided therefor, which might be easily realized, it was provided by the statute, that "so soon as the bonds of the State shall have been issued for the first section of the road, they shall constitute a lien upon said section, without a deed from the company," and the "State of Tennessee, upon the issuance of said bonds, and by virtue of the same, shall be invested with said lien or mortgage, without a deed from the company for the payment by said company of said bonds, with the interest thereon, as the same becomes due, and with a like mortgage or lien, without a deed from the company, upon the additional sections, and upon the entire road, including the stock, for the payment of all the bonds issued to the company, and for the interest accruing thereon." This statutory lien was to be operative at once, and without conveyance or assurance of any kind from the corporations, and was to be superior to all other liens, upon the entire road and property of any corporation so receiving such public assistance, in the State of Tennessee. The statute was to be a substitute for a mortgage executed by each railroad company, for the purposes named in the act.

By the terms of an act of the same session provision was made for a public and official record of the issues of bonds to the several roads. The Comptroller of the State was required to sign and number the coupons of the bonds issued to each railroad, and the Secretary of State was required to number and countersign the bonds; and upon delivering bonds to the several companies, the Secretary of State was required to take a receipt, reciting the number, date, and amount of the bonds so delivered. These receipts were to be taken in a well-bound book, to be deposited in the office of the Secretary of State.

The General Improvement law, above referred to, is herewith set out fully and at length, to wit:

AN ACT to Establish a System of Internal Improvements in this State.

SECTION I. *Be it enacted by the General Assembly of the State of Tennessee,* That whenever the East Tennessee and Virginia Railroad Company shall have procured *bona fide* subscriptions for the capital stock in said company to an amount sufficient to grade, bridge, and prepare for the iron rails the whole extent of the main trunk line proposed to be constructed by said company, and it shall be shown by said company to the Governor of the State that said subscriptions are good and solvent, and whenever said company shall have graded, bridged, and shall have ready to put down the necessary timbers for the reception of rails, and fully prepared a section of thirty miles of said road at either terminus, in a good and substantial manner, with good materials, for putting on the iron rails and equipments, and the Governor shall be notified of these facts, and that section, or any part thereof, is not subject to any lien whatever, other than those created in favor of the State by the acts of 1851–2, by the written affidavit of the Chief Engineers and President of said company, together with the written affidavit of a competent engineer by him appointed, at the cost of the company, to examine said section, then said Governor shall issue *to said company* coupon bonds of the State of Tennessee, to an amount not exceeding eight thousand dollars per mile on said section, and on no other condition, *which bonds shall be payable at such place in the United States as the President of the Company may designate*, bearing an interest of six per centum per annum, payable semi-annually, and not having more than forty nor less than thirty years to mature.

Sec. 2. *Be it enacted*, That the bonds before specified shall not be used by said company for any other purpose than for procuring the iron rails, chairs, spikes, and equipments for said section of said road, and for putting down said iron rails, and the Governor shall not issue the same unless upon the affidavit of said President, and a resolution of a majority of the Board of Directors, for the time being, that said bonds shall not be used for any other purpose than for procuring the said iron rails, chairs, spikes, and equipments for said section, and for putting down said iron rails, and the Governor shall have power to appoint a commissioner to act under oath, in conjunction with said President, in negotiating said bonds for the purposes aforesaid, and to act in any other matters pertaining to said company, where the interest of the State, in the opinion of the Governor, may require it.

SEC. 3. *Be it enacted, That so soon as the* BONDS *of the State shall have been issued for the first section of the road as aforesaid,* THEY *shall constitute a lien upon said section so prepared as aforesaid,* including the road-bed, right of way, grading, bridges, and masonry, upon all the stock subscribed for in said company, and upon said iron rails, chairs, spikes, and equipments, when purchased and delivered, and the State of Tennessee, upon the issuance of said bonds, and by virtue of the same shall be *invested* with *said* lien or mortgage without a deed from the company, *for the payment by said company of said bonds,* with the interest thereon as the same becomes due.

SEC. 4. *Be it enacted,* That when said company shall have prepared as aforesaid a second section, or any additional number of sections, of twenty miles each of said road, connecting with a section already completed for the iron rails, chairs, spikes, and equipments, as provided in the first section of this act, and the Governor shall be notified of the facts as before provided, he shall, in like manner, issue to said company like bonds of the State of Tennessee, to an equal amount with that before issued under the first section of the act for each and every section, of twenty miles of said road so prepared as aforesaid, but upon the terms and conditions hereinbefore provided, and upon the issuance of the said bonds, the State of Tennessee shall be *invested* with *a like mortgage or lien* without a deed from said company, upon said stock, and upon *said first and additional section or sections* of said road so prepared, upon the rails and equipments put, or to be put, upon the same, *for the payment of said bonds and the accruing interest thereon.* Provided, that if the last section of said road shall be less than twenty miles, or if the railroad proposed to be constructed by any company hereinafter specified, shall be less than thirty miles in extent, bonds of the State shall be issued for such section, or such railroad, as may be less than thirty miles in extent for an amount in proportion to the distance, as provided in this act, but upon the same terms and conditions in all respects, as required in regard to the bonds to be issued for the other sections of said road. And when the whole of said road shall be completed the State of Tennessee shall be *invested with a lien, without a deed from the company,* upon the entire road, including the stock, right of way, grading, bridging, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the company as incident to or necessary for its business; and all depots, and depot stations, *for the payment of all of said bonds issued to the company* as provided in this act, and for the interest accruing on said bonds. And after the Governor shall have issued bonds for the first section of the road, it shall not be lawful for the said company to give, create, or convey to any person or persons, or body corporate whatever, any lien, incumbrance, or mortgage of any kind which shall have priority over, or come in conflict with, the lien of the State herein secured; and any such lien, incumbrance, or mortgage shall be null and void as against said lien or mortgage of the State, which shall have priority over all other claims existing or to exist against said company.

SEC. 5. *Be it enacted, That it shall be the duty of said company to deposit in the Bank of Tennessee, at Nashville, at least fifteen days before the interest becomes due from time to time, upon said bonds issued as aforesaid, an amount sufficient to pay such interest, including exchange or necessary commissions,* or SATISFACTORY EVIDENCE THAT SAID INTEREST HAS BEEN PAID OR PROVIDED FOR, and if said company fail to deposit said interest as aforesaid, or furnish the evidence aforesaid, it shall be the duty of the Comptroller to report that effect to the Governor, and the Governor shall immediately appoint some suitable person or persons, at the expense of the company, to take possession and control of said railroad, and all the assets thereof, and manage the same and receive the rents, issues, profits, and dividends thereof, whose duty it shall be to give bond and security to the State of Tennessee, in such penalty as the Governor may require, for the faithful discharge of his or their duty as receiver or receivers, to receive said rents, issues, profits, and dividends, *and pay over the same, under the direction of the Governor, toward the liquida-*

tion of such unpaid interest. And if said company fail or refuse to deliver up said road to the person or persons so appointed by the Governor, the person so appointed shall report that fact to the Governor, who shall forthwith issue his warrant, directed to the Sheriffs of the counties through which the road shall run, commanding them to take possession of said road, fixtures, and equipments, and everything pertaining thereto, and place the said receiver in full and complete possession of the same, and said receiver so appointed shall continue in the possession of said road, fixtures, and equipments, and run the same, and manage the entire road, until a sufficient sum shall be realized, exclusive of the costs and expenses incident to said proceedings, *to pay off and discharge the interest as aforesaid, due on said bonds,* which being done, the receiver shall surrender said road and fixtures and equipments to said company. The comptroller shall from time to time settle the accounts with the receiver, and the balance shall be deposited in the treasury of the State. The comptroller is authorized, and it is made his duty, upon his warrant to draw from the treasury any sum of money necessary to meet the interest on such bonds, *as may not be provided for by the compauy, as provided for in this act,* and the comptroller shall report thereof to the general assembly from time to time.

SEC. 6. *Be it enacted, That if said company shall fail or refuse to pay any of said bonds when they fall due,* it shall be the duty of the Governor to notify the Attorney-General of the district in which is situated the place of business of said company of the fact; and thereupon, said Attorney-General shall forthwith file a bill against said company in the name of the State of Tennessee, in the Chancery or Circuit Court of the county in which is situated said place of business, setting forth the facts, and thereupon said Court shall make all such orders and decrees in said cause as may be deemed necessary by tho Ceurt, *to receive the payment of said bonds, with the interest thereon, and to indemnify the State of Tennessee, against any loss on account of the issuance of said bonds,* by ordering the said railroad to be placed in the hands of a receiver; ordering the sale of said road, and all the property and assets attached thereto or belonging to said company, or in such other manner as the Court may deem best for the interest of the State.

Sec. 7. *Be it enacted*, That at the end of five years after the completion of said road, said company shall set apart one per centum per annum upon the amount of bonds issued to the company, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the company shall pay into the treasury of the State, after assigning them to the Governor, and for which the Governor shall give said company a receipt, *and as between the State and said company, the bonds so paid in shall be a credit on the bonds issued to the company; and bonds so paid in, and the interest accruing thereon, from time to time, shall be held and used by the State as a sinking fund for the payment of the bonds issued to the company, and should said company repurchase any of the bonds issued to it under the provisions of this act, they shall be directed as aforesaid*, AND CANCELED. And should said company fail to comply with the provisions of this section, it shall be proceeded against, *as provided in the 5th section of this act.*

Sec. 8. *Be it enacted*, That the President of the company shall make semi-annual reports, under oath, to the Governor, until the completion of said road, setting forth fully the condition of the road and the company, and after its completion he shall report to the Governor annually, showing the financial condition of the company, giving a statement of the trade and travel upon the road, the receipts and expenditures, net earnings, and dividends, and what per cent. is paid on the stock to the stockholders. And said reports shall be consolidated every two years by the President of said company, and said consolidated reports shall be laid before the Governor by the first of September, every two years after the completion of the road, and the Governor shall lay said report before the Legislature for its action, at the next meeting thereof, after said report is made.

Sec. 9. *Be it enacted*, That it shall not be lawful for any officer of said company to engage in any speculation or dealing, directly or indirectly, in any real estate on or along the line, at any of the depots or depot stations, or at either terminus of said road, until after the road is completed, and every officer of the company, before entering upon the duties of his office, shall take an oath in writing, before any judge or justice of the peace in this State, that he will not knowingly violate the provisions of this act, and that he will faithfully perform the duties of his office; and if any such officer of the company, or other person taking an oath as herein provided, knowingly swear falsely, he shall be deemed guilty of perjury, and subject to all the pains and penalties thereof, and every affidavit required under this act may be sworn to before any judge or justice of the peace in this State.

SEC. 10. *Be it enacted*, That the provisions of this act shall extend to and embrace the Chattanooga, Harrison, Georgetown, and Charlestown Railroad Company, the Nashville and Northwestern Railroad Company, the Louisville and Nashville Railroad Company, the Southwestern Railroad, the McMinnville and Manchester Railroad Company, the Memphis and Charleston Railroad Company, the Nashville and Southern Railroad Company, the Mobile and Ohio Railroad Company, the Nashville and Memphis Railroad Company, the Nashville and Cincinnati Railroad Company, the East Tennessee and Georgia Railroad Company, the Memphis, Clarksville, and Louisville Railroad Company, and the Winchester and Alabama Railroad Company, so far as the main trunk roads to be constructed by said companies lie within the limits of this State, and not otherwise, and said companies shall have all the powers and privileges and be subject to all the restrictions and liabilities contained in this act.

SEC. 11. *Be it enacted*, That the gauge of all of said railroads (unless connecting with roads in other States of a different gauge) shall be the same as that of the Nashville and Chattanooga Railroad, and not otherwise, and the iron rails to be put upon said road shall not be less than eighty tons to the mile, if the U rail is used, and not less than one hundred tons to the mile if the T rail is used.

SEC. 12. *Be it enacted, That the State of Tennessee expressly reserves the right to enact by the Legislature thereof, hereafter, all such laws as may be deemed neces-*

sary to protect the interest of the State, and to secure the State against any loss IN CONSEQUENCE OF THE ISSUANCE OF BONDS UNDER THE PROVISIONS OF THIS ACT. BUT IN SUCH MANNER AS NOT TO IMPAIR THE VESTED RIGHTS OF THE STOCKHOLDERS OF THE COMPANIES.

SEC. 13. *Be it enacted*, That it shall be the duty of the Governor, from time to time, when there shall be reliable information given to him that any railroad company shall have fraudulently obtained the issuance of bonds of this State, or shall have obtained any of said bonds contrary to the provisions of this act, he shall notify the Attorney-General of this State, whose duty it shall be forthwith to institute, in the name of the State, a suit in the Circuit or Chancery Court of the county of the place of business of the company, setting forth the facts; and when the fact shall satisfactorily appear to the Court, that any of said bonds shall have been fraudulently obtained, or obtained contrary to the true intent, meaning, and provisions of this act, then, and in such case, the Court shall order, adjudge, and decree, that said road lying in the State, with all the property and assets of said company, or a sufficiency thereof, shall be sold, and the proceeds shall be paid into the treasury, *and it shall be the duty of the comptroller immediately to vest the same in stocks, creating a sinking fund, as provided for in the 7th section of this act;* and said company shall forfeit all rights and privileges under the provisions of this act, and the stockholders thereof shall be individually liable *for the payment of the bonds so fraudulently obtained* by such company, and for all other losses that may fall upon the State in consequence of the commission of any other fraud by such company, excepting such stockholders as may show to the said Court that they were ignorant of or opposed to the perpetration of such frauds by the company.

SEC. 14. *Be it enacted*, That in the event any of the roads, fixtures, or property belonging to any of said roads shall be sold under the provisions of this act, it shall be the duty of the Governor to appoint an agent for the State, who shall attend said sale and protect the interest of the State, and shall, if necessary to protect said interest, buy in said road or property, in the name of the State; and in case said agent shall purchase said road for the State, *the Governor shall appoint a receiver, who shall take possession of said road and property, and use the same as provided for in the 5th section of this act*, and said receiver shall settle with the comptroller semi-annually until the next meeting of the General Assembly.

SEC. 15. *Be it enacted, That this act shall be deemed and taken to be a public act as to all purposes of notice: Provided*, That should any of the companies hereinbefore enumerated have, *bona fide*, and before the passage of this act, purchased or otherwise contracted for, upon their own credit, the necessary iron, rails, spikes, equipments, for the road or roads, or any section or sections thereof, the bonds of the State shall be issued to such company or companies, as hereinbefore prescribed.

SEC. 16. *Be it enacted*, That the railroad companies specified in this act, and all other railroad companies hereafter incorporated in this State, shall have power to construct their roads so as to cross each other, if necessary, by the main trunks or branches, or to unite with each other, or with the branches thereof; and it shall be the duty of said companies, when required, to receive on their roads and branches, the full loaded freight cars from each other and the branches thereof, and transport the same to their destination, and return them, without charging for the transportation of the goods, wares, merchandise, and produce therein, any greater rate of freight than they charge for similar goods, wares, merchandise, and produce in their own cars. *Provided*, that said companies shall not be compelled to receive such cars on their roads, unless they are constructed with the same gauge, and are of equal strength with their own cars, of which the principal engineer of the road of which it is proposed to require said cars to be transported shall be the judge. *Provided*, that the bonds of the State, proposed to be issued to the Memphis and Charleston Railroad Company under the provisions of this act, shall, in event of their issuance to said company, be divided between the main trunk line, proposed to be constructed by said company, and the branch thereof, from the town of Moscow to the town of Sommerville, in the county of Fayette, according to the respective lengths of said main trunk line and said branch; and the lien of the State, as herein secured, shall continue upon said main line, and also upon said branch, until said bonds and interest are paid, as heretofore provided.

SEC. 17. *Be it enacted*, That in all cases where bonds may be issued to any of said companies, as provided in this act, the State of Tennessee shall be entitled to two directors in each company, to be appointed by the Governor of the State, to which bonds may be issued.

SEC. 18. *Be it enacted*, That when the Nashville and Chattanooga Railroad Company shall have completed twenty-five miles of their road, in addition to the eighty miles specified in the second section of the act, passed the 4th of February, 1848, chapter 169, then the Governor of the State shall indorse and guarantee, in the name and on behalf of the State of Tennessee, the bonds of said company to the amount of one hundred and seventy-five thousand dollars, and in like manner, when another section of twenty-five miles of said road shall have been completed, the Governor of the State, in the name and on behalf of the State, shall indorse and guarantee the bonds of said company to the additional amount of one hundred and seventy-five thousand dollars, and said bonds are to be indorsed and guaranteed in the same manner, and the same indemnity is to be furnished by said company for the protection of the State, and the like lien is to be given, and the same character of bonds are to be indorsed and guaranteed, as provided in the said act of the 4th of February, 1848.

SEC. 19. *Be it enacted*, That the aid contemplated by the first section of this act, shall only be extended to one of the roads chartered under the names of the Nashville and Southern Railroad Company, and the Tennessee and Alabama Railroad Company. *Provided*, That the first of said roads which shall secure the subscription of the capital stock, for the construction of the same, shall be entitled to such aid. *Provided further*, If the Nashville and Southern Railroad Company first obtained the stock in their railroad, as provided in the first section of this act, and shall construct their road to the Tennessee river, to the Mississippi State line, or to a point between the

Tennessee river and the Mississippi State line, then the Tennessee and Alabama Railroad Company may construct their road from the Alabama State line to intersect with the Nashville and Southern Railroad, at such point as said company may select, and the provisions of this act shall extend to the Tennessee and Alabama Railroad, from said Alabama State line to said point of intersection. But if the Tennessee and Alabama Railroad Company first obtain the stock in their railroad, as provided in the first section of this act, and construct their road to the Alabama line, in the direction of Florence, then the Nashville and Southern Railroad Company may construct their railroad from the Tennessee river, the Mississippi State line, or any point between the Tennessee river and the Mississippi State line, so as to intersect the Tennessee and Alabama Railroad, at such point as the company may select, and the provisions of this act shall extend to said railroad from said point of intersection to the Tennessee river, the Mississippi State line, or to any point between the Tennessee river, and the Mississippi State line. And the Nashville and Southern Railroad Company, and the Tennessee and Alabama Railroad Company, shall have power to unite or consolidate their stock if they deem it advisable, and upon such terms as the companies may agree upon. *Provided also*, that if the Memphis and Nashville Railroad Company shall not comply with the requirements of this act, and complete thirty miles of their road within four years; or if the Nashville and Northwestern Railroad Company shall, in like manner, fail to complete thirty miles of their road within four years, then the Tennessee Central Railroad Company shall have all the rights, powers, privileges, and benefits intended to be given by this act, to those companies respectively, under the same restrictions and limitations; but the said Tennessee Central Railroad Company shall be allowed two years longer time, in which to prepare thirty miles of their road-bed for the reception of the iron rails, and may then receive the aid of the State, in the issuance of bonds for their benefit, as prescribed in this act. *Provided*, That this provision shall not preclude any subsequent legislature from extending the time of four

> years, in which to complete any section of thirty miles of said Nashville and Memphis, or Nashville and Northwestern Railroad. *That each of said companies is hereby authorized and required to appoint an agent or agents to whom the bonds shall be delivered, and whose duty it shall be to control said bonds, and see that they are exclusively applied to the payment of the railroad iron and equipments, as provided for in this act, and for no other purpose whatever.* And the said agent, before he receives the bonds of the State, shall give bond and security, to be approved by the Governor and payable to the State of Tennessee, for the application of the bonds, or the proceeds thereof, to the purposes aforesaid. *Provided,* That before any bonds, under the provisions of this act, shall be issued to any agent of any railroad contemplated by this act, the president of any such company shall first deposit in the office of the Secretary of State, a full, true, and accurate list of all the stockholders, with the sums subscribed by each and every stockholder.
>
> SEC. 20. *Be it enacted,* That no road embraced in this act shall be entitled to State aid unless it shall, *within four years,* complete at least one section of thirty miles, or the whole length of the road, if less than thirty miles long.

Those portions of the act of February 21st, 1852, providing for identification of the bonds, by means of public records, are as follows :

> SEC. 7. *Be it further enacted,* That the different Internal Improvement Companies, to whom the bonds of the State may be loaned under the different acts of the present Legislature, shall pay the expenses of engraving and preparing the same.
>
> SEC. 8. *Be it enacted,* That the Governor of the State shall cause to be engraved and printed, the bonds which may be issued under the acts of the present General Assembly, as a loan made to Internal Improvement Companies, and the said bonds shall bear date on the first day of January prior to their issuance, and the coupons thereto shall be payable on the first days of January and July of each year.

SEC. 9. *Be it enacted, That the coupons shall be signed and numbered by the comptroller, and the bonds shall be countersigned, sealed, and numbered by the Secretary of State, and upon delivering said bonds to the company authorized to receive the same, the Secretary of State shall take a receipt, reciting the number, date, and amount of said bonds*, in a well-bound book to be deposited in his office, and the Comptroller and Secretary of State shall each be entitled to receive twenty-five cents for each bond so prepared, to be paid by the party receiving the said bond.

Your orator shows that the State of Tennessee, by act of its General Assembly, passed on the 8th of February, 1854, increased the amount of bonds to be issued to the several "internal improvement companies from $8,000 to $10,000 per mile," and provision was made for an issue of similar bonds to be used for bridge purposes. The said act was amendatory of the act passed 11th of February, 1852, "to establish a system of internal improvement in this State," and required that the increased amount of bonds should be received, "upon the terms and conditions mentioned in the act, which this was intended to amend." By the act of February 17, 1854, the length of the sections which it was necessary for the railroads to complete before obtaining bonds of the State, was decreased from twenty to ten miles, after the completion of the first section of thirty miles. By the act of January 19, 1855, the foregoing act was amended so that the grading only of ten-mile sections was required, in lieu of the completion of said sections, as a preliminary to obtaining the issuance of bonds. The act of October 29, 1855, was amendatory of the bridge law, above mentioned.

Your orator attaches hereto copies of said acts above referred to, marked Exhibit B, and makes them a part of his bill of complaint.

Your orator shows that there was delivered on account of the Nashville and Northwestern Railroad, and to the company of that name, internal improvement bonds of the State of Tennessee, being of the numbers, dates, and in the amounts hereinafter set forth:

10,322 to 10,601, White, B, 280	$280,000
11,395 to 11,444, White, B, 50	50,000
11,445 to 11,544, White, B, 100	100,000
67 to 196, White, C, 130	130,000
197 to 366, White, C, 170	170,000
717 to 881, White, C, 165	165,000
1,029 to 1,218, White, C, 190	190,000
1,239 to 1,358, White, C, 120	120,000
1,359 to 1,488, White, C, 130	130,000
1,587 to 1,706, White, C, 120	120,000
41 to 315. Green, no letter, 275	275,000
2,246 to 2,470, Green, no letter, 225	225,000
3,710 to 3,859, Green, no letter, 150	150,000
4,118 to 4,192, Green, no letter, 75	75,000
4,956 to 5,005, Green, no letter, 50	50,000
5,594 to 5,793, Green, no letter, 200	200,000
6,711 to 6,735, Green, no letter, 25	25,000
6,892 to 7,016, Green, no letter, 125	125,000
8.202 to 8.293, Green, no letter, 92	92,000
101 to 200, Green, B, 100	100,000
3,118 to 3,160, Green, B, 43	43,000
3,161 to 3,368, Green, B, 208	208,000
3,369 to 3,467, Green, B, 99	99,000
3,568 to 3,667, Green, B, 100	100,000
	$3,222,000

A copy of one of the said bonds and coupons is hereto attached, marked Exhibit C.

Your orator shows that the said bonds, to the amount of $3,222,000, were received by or on behalf of the Nashville and Northwestern Railroad Company, through the officers appointed in the act of February 11, 1852, and were, by the said company negotiated and sold, in pursuance of law, to *bona fide* holders. The proceeds of these bonds were to be so applied as to enable the company to which they were loaned, to earn the interest and principal moneys of the said obligations.

About sixteen hundred and fifty-three of the said bonds are now outstanding in the hands of *bona fide* holders. Your orator is the owner and holder of thirty of said bonds, each for $1,000, being of the numbers, dates, and descriptions in all respects of the bonds heretofore described and issued to the Nashville and Northwestern Railroad Company by the State of Tennessee; all of which bear date on or before January 1, 1860.

Your orator is likewise the holder of seven coupons, attached to each one of said bonds, the same representing the installments of interest for three and one-half consecutive years, beginning with the installment that fell due on the 1st of January, 1876, and including the installment of the first day of January, 1879, and amounting in the aggregate to twenty-one per cent. of the par or principal amount of each one of the aforesaid bonds.

Your orator shows that holders of said bonds are very numerous, and reside in foreign countries, as well as in different parts of the United States. Their names are in great part unknown to your orator, and they are therefore not made parties hereto.

And further complaining, your orator shows that the Nashville and Northwestern Railroad Company, and the other respondent herein, has failed to comply with the provisions of the general internal improvement law above recited, for the payment of the said installments of interest on your orator's bonds, and on the bonds of other holders in like situation; and the coupons of the bonds aforesaid are now in default and unpaid.

Your orator charges like defaults upon the coupons of all other of said bonds issued to said company, that have fallen due and have become payable by the Nashville and Northwestern Railroad Company, according to the terms of the statute, on the first day of January, 1876; on the first day of July, 1876; on the first day of January, 1877; on the first day of July, 1877; on the first day of January, 1878; on the first day of July, 1878; and on the first day of January, 1879. The State of Tennessee is likewise in default on said coupons.

Your orator is entitled to the enforcement of the lien aforesaid, for the payment of interest on his bonds, and those of other holders, and for the appointment of receivers, under the powers and according to the usages of courts of equity, and for the purposes described in the statute.

Your orator further shows that it is provided by the statute, that upon default in the payment of interest by any of the Internal Improvement Companies, upon the bonds issued to it, the right to impound the rents, issues, profits, and dividends shall accrue, for the purpose of paying over the same toward the liquidation of the unpaid interest. For the execution of that purpose, it provides that some suitable person or persons shall be appointed as receivers, to take possession and control of said railroad, and all the assets thereof. Said receiver is to continue in possession and manage the entire road, until a sufficient sum shall be realized, exclusive of the costs and expenses incident to such proceedings, to pay off and discharge the interest due on the bonds.

And now your orator shows that the said railroad company pretends and claims that the aforesaid lien on its property is satisfied and discharged, without payment of the interest or principal of your orator's bonds, and that it is also absolved from the obligation which it assumed by the acceptance and use of the said bonds to pay the interest thereon.

It claims that the discharge of said incumbrance has been effected by and through the means of certain legislation, enacted in the years 1870 and 1871, many years after the sale of the said bonds, and while the same were outstanding and unpaid, as they still remain, in the hands of *bona fide* purchasers thereof.

Your orator shows that the said pretense is invalid and fraudulent, and he charges the case to be as follows:

During the late civil war the railroad companies did not pay the interest on the bonds issued to them, and after the war they still continued in great part in default in making the payments of interest on the said bonds. The State of Tennessee had likewise been in default during the same time. The market value of the bonds had meanwhile fallen very greatly, and the securities were very much depreciated, to about fifty per cent. or less of their par value.

Under these circumstances, the project was conceived of avoiding the liabilities of the corporations for the payment of the bonds loaned to them, and of enabling the State to reduce her unsecured debt at the expense of the holders of the internal improvement bonds. That project was to be enforced by treating the lien on the railroads as the absolute property of the State, without regard to the trust in favor of the holders of the bonds whose moneys the companies had received. The legislature was to be induced to proceed upon this basis, and to sell and assign the lien on each road, in consideration of the receipt by the State of an amount of its bonds from each company, without regard to whether they were the bonds issued to and the obligations of the company delivering them, and were entitled to the lien on its road. The procurement of such acts of the General Assembly of Tennessee was sought, as it was deemed would assist in the accomplishment of this project.

Your orator shows that, in pursuance of the above scheme, the General Assembly of Tennessee was induced to pass an act, on July 5, 1870, authorizing certain commissioners, therein named, to sell the interest of the State in all the railroad companies that had failed for two consecutive years to pay the interest upon the bonds that had been issued to them severally. The act further provided "that the said commissioners can dispose of the interest of the State of Tennessee in the defaulting railroads, for a sum of money equal to the amount of the bonds of the State of Tennessee, with unpaid interest due upon them, and which bid may be discharged and satisfied by an equal amount of the bonds of the State of Tennessee, with accrued interest, legally issued by the State of Tennessee in aid of said railroad, or for any other purpose."

Your orator shows that the commissioners named in said act were unable to obtain the minimum price contemplated by the above legislation, and consequently could not effect a sale thereunder.

Your orator shows that the act of December 22, 1870, was thereupon passed, and in and by the provisions of the said act, the commissioners therein named were authorized to sell the delinquent railroads for any amount of bonds of the State, including those not secured by liens upon these roads respectively, leaving the bonds so secured by liens still outstanding and unpaid. By those provisions such legislative purpose and mandate was expressed and was directed to the commissioners named as the executive officers to carry it into effect. This was the scope and design of the legislation, and the administration of these objects was intrusted to the Governor, Comptroller, Secretary of State, and three other commissioners.

The commissioners were authorized to dispose of the roads at public or private sale, as they might judge most advisable. These sales were to be legislative acts, deriving their entire force and efficacy from the statute.

By an act subsequently passed, on November 17, 1871, "the sales made by the commissioners" were, under certain conditions, "ratified, sanctioned, and confirmed, and said commissioners are authorized and fully empowered to place said purchaser or purchasers in full possession of said road so purchased." These directions were to be executed without any other authority than the will of the General Assembly. The said acts are hereto attached, marked Exhibit D, and are prayed to be taken as a part of this bill.

Your orator shows that, in pursuance of the above legislation, and by virtue of the claim of authority derived therefrom, the commissioners proceeded to effect a sale of the Nashville and Northwestern Railroad, to parties who took the same with full knowledge of the trusts in favor of the holders of the internal improvement bonds, as will more fully hereinafter be set forth. Of all the legislation in reference thereto, and all the proceedings thereunder, your orator has but lately become cognizant.

Your orator shows that all of the above acts and doings are void in law and fraudulent in fact. The purpose of the legislation was to convert the lien held in trust by the State for the State's benefit. The acts denominated it "to sell the State's interest," and this was to be done for any obligations of the State. The commissioners were, therefore, authorized to make such sale, and, in substance, to sell and assign the mortgage held by the State. This was a violation of the trust reposed in the State by contract with the purchasers of the bonds issued by it to the several companies. Its duty as the trustee of the security was merely to preserve it and enforce it as directed in the statute constituting the deed of trust. It could not so transfer the security, which it held in trust, as to confer a title upon another divested of the trust. The trust was embodied in a public law, and constituted express notice to everybody. No sale of the statutory lien was authorized by the acts constituting it, and no realization or enforcement of the lien, in any manner, contemplated, save and except for the benefit of the bondholders. All of the above legislative provisions for the transfer of the lien in consideration of other obligations of the State, whether for an amount equal to the issue of the internal improvement bonds, or for a less amount, are violations of contract, unconstitutional, and void.

Your orator further shows that the said act ordered and directed a sale of the said railroad, though the principal of the internal improvement bonds had not become due. For the failure of the corporations to pay interest, the general improvement law provided that a receivership should continue until the unpaid installments of interest had been satisfied. The investment of the bondholders was based on the continuance of their security for the life of the principal debt; they were not to be forced to call in their loans for non-payment of interest, but were to be entitled to all the benefits which could accrue from the property. There was a like provision for defaults in sinking fund payments, as for failure to pay interest. These were the rights of the bondholders, fixed by the contract in the general improvement law. The amendment of that law, providing for a sale for non-payment of interest installments, was enacted in 1867. The amendments to a similar purport, for non-compliance with the sinking fund requirements, were not sought to be enforced by the acts in question, for the sale of delinquent roads for the non-payment of interest, nor did those sinking fund provisions contemplate a sale of the roads.

Your orator shows, that the said acts sought to alter and impair the contract with the internal improvement bondholders, contained in the general law of 1852. They were a violation of the federal constitution, and conferred no right or authority on the commissioners to make the sales referred to, and could not enable them to give any title to purchasers thereof, save and except, it may be, in trust, for your orator and the other holders of the internal improvement bonds issued by the State of Tennessee to the Nashville and Northwestern Railroad Company.

Your orator shows, that the acts purporting to confer jurisdiction of a judicial nature, as hereinafter set forth, violated the constitution of Tennessee, and were and are not laws of the land, and gave no jurisdiction to entertain the said special proceeding. For so it is that the constitution of the State of Tennessee provides against the passage of special laws inconsistent with the general laws of the land.

Your orator further shows that said acts likewise attempted to constitute a court of special andl limited jurisdiction. They defined its powers, and did not authorize any notification of the proceedings to be given to the holders of the State bonds issued to the companies. Without such authority no such notice could be given with any legal effect. The act prescribed a tribunal, which proceeded to pass upon the rights and property of the internal improvement bondholders without any provision for enabling them to be heard in defense of their rights. The said proceeding is void as respects the rights of the internal improvement bondholders, and they are entitled absolutely to disregard it.

The acts violated the constitution of Tennessee, and were void, because they sought to constitute a court of an officer who had already, as counsel, given an opinion upon the questions which it was sought to have formally adjudged, and that opinion was in favor of the views which the legislature sought to enforce.

The said acts also violated the Constitution of Tennessee in this, that they attempted to confer power, in its character non-judicial, upon a judicial tribunal.

Your orator shows that the said acts could not confer any judicial power to determine or adjudicate upon questions that might arise in the future. No judicial power exists for any such purpose, nor any judicial machinery which can be lawfully used therefor. Neither a legislature nor a court can create questions for the purpose of predetermining them and cutting off the rights of parties not aware of such a sham proceeding. In all the above respects the legislature did, in legal effect, provide only for the opinion of Edward H. East individually, and as advisory to those who were about to risk moneys in the attack upon the security of the internal improvement bondholders.

In all the above respects, those portions of the statutes in reference to judicial proceedings were void. They did not create any court or authority, or give any validity to the proceeding contemplated.

Your orator shows that, pending the said sales by the legislative commissioners, it was deemed advisable to elicit an expression of opinion from an incumbent of some judicial office in the State of Tennessee, in reference to the vailidity of the attack made upon the liens and rights of the internal improvement bondholders.

The general improvement law of 1852 provided that when a bill should be filed to obtain a sale of the roads in the enforcement of the lien of the bonds issued to them, and to receive the payment of said bonds, with the interest thereon, the proceeding should be instituted in the Chancery or Circuit Court of the county in which is situated the place of business of said company.

Your orator shows that about the time of the passage of the act hereinafter referred to, and during the year 1870, an opinion of Edward H. East and others, counsel for the Nashville and Decatur Railroad Company (the Nashville and Decatur Railroad Company being one of the corporations whose roads had been built with the moneys of bondholders who had purchased the bonds issued to it and its several integral parts), had been printed and extensively circulated in the State of Tennessee, That opinion was to the effect that the lien of the bonds on the several roads to which they were issued, and which lien was vested in the State for their payment, was the absolute and peculiar property of the State of Tennessee, which she could treat in any manner she saw fit, without regard to any trust in favor of the bond-holders.

Edward H. East had become the Chancellor or Judge of the Chancery Court at Nashville, and then and thereupon the General Assembly enacted that a bill "shall be immediately filed in the Chancery Court at Nashville," although Nashville was not within the county wherein the places of business of nearly all said companies were situated. The said Court was adopted as a special tribunal for the purposes of the act, and "invested with exclusive jurisdiction to hear, adjudicate, and determine all questions of law and matters of controversy of whatever nature, whether of law or fact, that have arisen, or that may arise," in respect to the subject-matter therein referred to.

The act proceeds: "The judge of said Court is hereby empowered and especially requested to appoint a special term of said Court, to be held on the first Monday in March, 1871, for the purpose of expediting a speedy determination of the various matters contemplated by this act."

The parties defendant to the bill are to be "all the delinquent companies, the respective stockholders, holders of the bonds, creditors, and all persons interested in the said several roads."

The questions whose determination was sought to be anticipated and foreclosed were those to arise between the State and any or all of the parties interested in said roads;" and the judge was "to define as may be thought proper what shall be the rights and duties and liabilities of a purchaser of the State's interest in said roads."

Without exception as to fact or law, it was further provided that "the parties, or any of them, may, in person or by attorney, with the consent of the attorney for the State, make an agreed case, submitting all such questions as they may think proper to the immediate decision of the Court."

The time for prosecuting an appeal or writ of error was limited to thirty days from final decree, "in view of the urgent public necessity for a speedy determination." In case of appeal or writ of error, the Supreme Court "is specially empowered and respectfully requested to take up, and finally dispose of the case, in preference to all other cases on the docket, and, if not in session, to appoint a special term for the immediate hearing of the same." But your orator shows that all of the above ceremony was to be "preliminary to a sale of the State's interest in the road, as declared by the said act."

There was no provision in the acts for making any of the holders of the internal improvement bonds parties to the said proceeding. By the amended bill in the cause, the complainant alleged that it could find only one holder of the State bonds issued by any of the delinquent railroads. This single holder of a single bond on but two out of eleven of these roads was made a defendant, and an order of publication directed for "holders of bonds issued by the State to said companies," to be made in two Nashville newspapers.

Dempsey Weaver, the bondholder aforesaid, filed a form of answer in which "this respondent submits to the honorable court the whole question of his rights and lien, if any, in said roads."

On the 6th day of July, 1871, a decree was entered, reciting as follows:

> "It further appearing that of the roads whose debts have thus been ascertained, the East Tennessee Company and Western North Carolina Railroad have declined a contest with the State in regard to the sale of the State's interest in its road, and a decree has been rendered accordingly for a sale of such interest by the commissioners at once; that all the residue of said companies, except the Southwestern Railroad Company, have consented to a sale of their said several roads, with all their rights, privileges, and franchises, and decrees have been entered accordingly, preference for a limited time being, by such decrees, conceded to the said companies respectively, and then to their stockholders, or such of them as choose to join in the purchase, to become

> the purchasers of their said several roads at the minimum price fixed by the Court, in accordance with the act of December 21, 1870, chapter 23, and that a decree has been made for a sale of the South-western Railroad Company. It further appearing that it is made the duty of this Court, by the said act, to adjudicate and determine all questions of law and matters of controversy of whatever nature, whether of law or fact, that have arisen, or may arise, touching the rights and interest of the State, and also of the stockholders, bondholders, creditors, and others, in said roads, and likewise to define, as may be thought proper, what shall be the rights, duties, and liabilities of a purchaser of the State's interest in said roads, or either of them, and what shall be the reserved rights of said companies, stockholders, and others, respectively, as against said purchasers, after such sale, under the existing laws of the State; and it further appearing to the satisfaction of the Court, that the holders of the State bonds issued by the State to the said several companies are properly made defendants to this suit, and are sufficiently represented by the holders of such bonds as are made defendants by name, or have come in and answered."

Your orator shows that the proceedings before Chancellor East are null and void, and do not constitute any bar of the rights of the complainant, inasmuch as the bill was filed by a trustee, in disaffirmance of his trust, and preliminary to an attempted destruction of the trust security for his own advantage. In that proceeding the *cestuis que trust* were necessary parties. The statute gave no authority to bring them into the cause, and the service and publication and appearance were *coram non judice*, and lent no authority to the judgment which was entered.

The proceedings were not judicial, nor within the jurisdiction of the Court, but were purely matters of convention and agreement, as appears on the face of the decree itself.

There was no Court organized under the constitution of Tennessee, because Edward H. East, the sole presiding judge, had given an opinion as counsel in favor of the claims, which the State sought to exercise.

And so it was that the said Edward H. East proceeded to reiterate from the bench an opinion to the same effect as the one he had pronounced as counsel. And the Louisville and Nashville Railroad Company, being the lessee for years of the said Nashville and Decatur Railroad Company, availed itself of the said opinions to become the purchaser of one of the largest properties sold by the commissioners, to wit, the Memphis, Clarksville and Louisville Railroad.

The Court had no authority to confirm the sales made by the commissioners, and all its action in that respect was *coram non.*

Your orator shows that the litigation was purely fictitious. The chancellor confessedly passed upon all questions that might arise after everything had been consented to, and there were no questions before him.

Your orator shows that the entire transaction, both in its legislative and judicial forms, exhibits violations of trust and patent fraud, and binds the purchasers of the property as trustees for the Internal Improvement bondholders.

The complainant sought an expression of opinion from an officer of Court, to facilitate her in obtaining a better price for property of which her legislature had directed a sale to take place for her sole benefit, and in violation of her trust. This sale was accompanied by a ceremonious litigation, but was not made by virtue of the same, nor was any power conferred on the Court to prevent or in any manner affect the sale or the receipt of the trustees' obligations for the property of her *cestuis que trust.* The defendants united in this purpose, and consented to its being carried out, upon condition that they should have the advantages of it, by delivering depreciated State obligations at their face value for them. Other benefits were to be received by the corporations and their stockholders, as appears from the record of the proceedings, of which your orator will bring proof on the hearing. The expenses of the respondent were, by like consents, paid out of the proceeds of the property.

The purchaser was the Nashville and Chattanooga Railroad Company, which was also a recipient of bonds under the Internal Improvement Laws aforesaid. The Nashville and Northwestern Railroad Company had appealed from the decree to the Supreme Court, but, at a special meeting of the stockholders, a resolution was passed to abide by the result, if the purchaser would pay the stockholders five per cent. on the par of their stock. This was done with a majority of the stockholders, but, in some instances, the stockholders received ten per cent. on the par of their stock. Thereafter consolidations with the purchaser were effected which placed the property in the custody of the respondent, the Nashville, Chattanooga and St. Louis Railroad Company.

Your orator further avers and shows that the said pretenses and claims are illegal, void, and fraudulent. The defendants never had, nor have they, any right to affect or impair the contract and lien which was created and entered into by and between the holders of the internal improvement bonds loaned by the State of Tennessee to the railroad company, and the State of Tennessee as trustee of the said lien or mortgage, and the railroad company as the debtor under the said contract and lien.

Your orator further charges that by the terms of the general improvement law of February 11, 1852, the State of Tennessee constituted herself the trustee for whomsoever might become the holders of the bonds loaned to the several railroad companies named in the act. The terms of that trust were defined and set forth in the sections of the statute.

By the acceptance of the bonds, and the use of their proceeds by the Nashville and Northwestern Railroad Company, a mortgage lien attached to the property of the company, without a deed from the company, and the conditions of that mortgage were as prescribed in the statute. By the purchase of the said bonds, the holders thereof became entitled, by contract, to the lien rights set forth in the internal improvement law. That lien was distinctly specified to be for the payment of the principal and interest of the bonds issued to them.

Your orator charges that the acts, of date subsequent to the issuance of said bonds, in so far as they attempt, or may be construed to have authorized the satisfaction of the statutory lien established for the benefit of the holders of the internal improvement bonds of Tennessee loaned to the said company, by any other means than payment, impaired or sought to impair the obligation of the contract aforesaid, and were in violation of the federal constitution, and void, and all acts committed thereunder are illegal and null.

And your orator furthermore shows that no advisory proceeding of a chancellor, declaring his opinion of the legal effect of the acts of the Tennessee General Assembly, and of the execution of those acts, can affect your orator's rights and those of the other internal improvement bondholders, especially when he and they were not parties to the proceeding nor cognizant of its existence, and when the opinion of the sole presiding judge had already been elicited as counsel adversely to the rights of the bondholders.

Your orator likewise shows that, by virtue of his right in equity as a lienholder and the terms of the statutory mortgage above described, he is entitled to have the possession of the Nashville and Northwestern Railroad, in the State of Tennessee, secured by a receivership, for the benefit of the holders of the internal improvement bonds aforesaid, issued to the Nashville and Northwestern Railroad Company, and for the payment of the interest thereon, for which the said company became bound. The receiver or receivers so to be appointed should apply the revenues of the property to the payment of the overdue interest on said bonds.

Your orator shows that the officials of the State of Tennessee, named in the internal improvement law for the execution of the trusts pertaining to the statutory receivership, to wit, the comptroller and the governor, claim to be bound by the subsequent acts of the General Assembly of Tennessee, passed in the years 1870 and 1871, to abstain from any action toward the enforcement of said trust, and your orator is unable to obtain the action of the said officials, or of the State of Tennessee, as trustee for the execution of the trusts aforesaid. Your orator shows that he is remediless at law and without the intervention of a court of equity.

Wherefore, your orator prays that the priority of the said lien of the internal improvement bonds and coupons aforesaid, upon all the railroad equipment, incomes, tolls, rights, privileges, property, and franchises of said Nashville and Northwestern Railroad Company, within the State of Tennessee, may be established above all other claims and demands, as constituting the first and paramount incumbrance on said property and rights. That the income of said property, arising from its use in said State, may be applied to the payment of interest accrued and to accrue upon the bonds hereinbefore described, and as may appear by proofs before a master to be still outstanding and unpaid. That the said property may be seized by order of this Court, and placed in the hands of receivers, to be administered according to the liens and trusts declared upon it, and to which it has been pledged and covenanted to be applied.

And, may it please your Honors, to grant unto your orators such further or other and different relief in the premises, as the nature of the case may require, and be consistent with equity and good conscience.

May it please your Honors, to grant unto your orator writs of subpœna of the United States of America, to be directed to the said Nashville and Northwestern, and the Nashville, Chattanooga and St. Louis Railroad Companies and against all other persons interested in this matter and amenable to the jurisdiction of this Court, when discovered, thereby commanding them and every one of them, at a certain day and under a certain penalty therein to be specified, personally to be and appear before your Honors, in this honorable Court, and then and there to answer all and singular the premises, and to stand to, perform, and abide such orders and decrees therein as to your Honors shall seem meet.

E. L. ANDREWS and GEORGE HOADLY,
Solicitors, and of Counsel for Complainant.

APPENDIX.

Exhibit B.

ACT OF FEBRUARY 8, 1854.

AN ACT to amend an act passed 11th February, 1852, entitled "An Act to establish a system of Internal Improvement in this State."

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the bonds of the State shall issue to the companies mentioned in the first and tenth, and nineteenth sections of the act which this is intended to amend, and also to the "Edgefield and Kentucky Railroad Company," "Central Southern Railroad Company," "Knoxville and Charleston Railroad Company," Mississippi Central and Tennessee Railroad Company," "Knoxville and Kentucky Railroad Company," "Tennessee Western and Charleston Railroad Company," and "Cincinnati, Cumberland Gap and Charleston Railroad Company," *upon the terms and conditious mentioned in the act which this is intended to amend,* but to the extent of ten thousand dollars (instead of eight thousand) per mile. *Provided,* that the aid of the State shall be extended to the South Carolina, Tennessee and Kentucky Railroad Company, in lieu of the Knoxville and Charleston Railroad Company, to the extent of fifty-five miles, and no more, in the event the Blue Ridge Railroad Company of South Carolina shall adopt the charter of said South Carolina, Tennessee and Kentucky Railroad Company, and obligate themselves in such manner as shall be satisfactory to the Governor, not to stop the construction of the said road at a junction with the East Tennessee and Georgia Railroad, but to build said road to South West Point; and said South Carolina, Tennessee and Kentucky Railroad Company, before it shall receive the aid herein provided, shall bring itself within the general provisions in all respects, of the act which this is intended to amend. But should the Blue Ridge Railroad Company not adopt such charter, and enter into the obligations aforesaid, then the provisions of this act and that which it is intended to amend, shall apply in all things to the Knoxville and Charleston Railroad Company.

SEC. 2. *Be it further enacted,* That bonds of the State shall issue to the companies mentioned in the first section of this act, and the tenth and nineteenth sections of that which this is intended to amend, for each bridge that said companies, or either of them, may have to build in East, Middle, and West Tennessee, across the Holston, Clinch, Big Hatchie, Tennessee, and Cumberland rivers, for the maximum sum that bonds are provided to be issued to said East Tennessee and Georgia Railroad Company, by an Act passed February 4, 1852, entitled, "An Act to aid in the completion of the East Tennessee and Georgia

Railroad," and upon the terms and conditions mentioned in said Act (except the 2nd section), and also in the fifth and sixth sections of an Act, passed February 26, 1852, entitled "An Act to charter the Chattanooga, Blue Spring, and Cleveland Railroad Company, and for other purposes," and said bonds to be issued under this section shall be included in the aggregate amount of stock raised by said companies in the same manner that the three hundred thousand dollars of bonds loaned to the East Tennessee and Virginia Railroad Company, under an Act, passed January 15, 1852, to enable said company to build bridges, are provided to be included in the aggregate amount of stock to be raised by the East Tennessee and Virginia Railroad Company.

Sec. 3. *Be it further enacted*, That the office of "Commissioner of Roads" be filled by the appointment of the Governor; that the incumbent shall hold his office for two years, and shall receive an annual salary of two thousand dollars. It shall be his duty to examine into the condition of railroad companies applying for the bonds of the State, and to report on oath to the Governor, the condition of said roads and the companies owning them; inquiring into and reporting all the facts necessary to be reported upon under this Act, and that which this is intended to amend. He shall further superintend and supervise the interest of the State in all the railroads and turnpike roads of this State, and whenever he may deem it necessary, report to the Governor any facts he may believe to be of importance to said interest. The said commissioner, in making his investigations, shall have the power to administer oaths, and send for persons and papers; and may, if in the opinion of the Governor it should be necessary and proper, apply to the Courts for aid to protect said interests; and it shall not be lawful for the Governor to issue such bonds to any railroad company until he shall be satisfied they have complied with the law.

Sec. 4. *Be it enacted*, That if any officer, agent, or servant of any railroad company receiving the bonds of the State, shall appropriate said bonds or the money arising from the sale thereof, or any portion of either, to any other use than that prescribed in the Act under which said bonds shall be issued, such person or persons so offending shall be deemed guilty of a felony, and, upon conviction, shall undergo confinement in the penitentiary for a period of not less than five nor more than fifteen years.

Sec. 5. *Be it enacted*, That no road embraced in this Act shall be entitled to its provisions, unless it shall, within four years, grade one section of thirty miles.

Sec. 6. *Be it enacted*, That the Governor shall indorse and guarantee the bonds of the Nashville and Chattanooga Railroad Company to an amount not exceeding six hundred and fifty thousand dollars, and the State shall thereupon, by virtue of this Act, be invested with a lien upon the entire road of said company, with all its equipments, fixtures, etc., and shall have the same remedies for enforcing said lien as are given by previous Acts of the General Assembly directing an indorsement of the bonds of said company. The provisions of this Act shall extend to all railroad companies mentioned in the aforesaid Act, passed February 11, 1852, whose charters, routes, or names have been, or may hereafter be, changed; and if any two or more of said companies shall be consolidated, they, or the consolidated company, shall still be entitled to the provisions of this Act.

Sec. 7. *Be it further enacted,* That the Mississippi Central and Tennessee Railroad Company shall be entitled to the provisions of this Act from Jackson, Tennessee, to the Tennessee river, for any extension of said road which said company may make from Jackson by way of Huntingdon in the direction of Nashville. And, *provided further,* that nothing in this Act shall be so construed as to extend the time for the completion of the first section of the roads mentioned in the said Act of 11th February, 1852.

Sec. 8. *Be it enacted,* That the bonds to be issued under the provisions of this Act shall, *in no case be sold at less than par.*

Sec. 9. *Be it further enacted,* That the first section of an Act, passed February 11, 1852, entitled "An Act to establish a system of internal improvements in this State," be so amended that whenever the East Tennessee and Virginia Railroad Company shall have graded and shall have ready to put down the necessary timbers for the reception of rails, as is contemplated in said section, from Knoxville to the Holston river at Magbie's ferry, or to the Holston river at Middletown, at each end, it shall be the duty of the Governor to issue bonds of the State to the company, as is required in said section, and when said company shall have complied with the above requisitions, it shall be considered as fulfilling the requirements in full of the first section of the Act above referred to.

Sec. 10. *Be it enacted,* That the provisions of this Act shall extend to and embrace the Mississippi and Tennessee Railroad Company, chartered 5th December, 1853, and the State aid given to other roads by this Act shall be given in like manner to the said Mississippi and Tennessee Railroad, so far as the same lies in the State of Tennessee.

Sec. 11. *Be it enacted,* That the farther time of two years is hereby extended to the Southwestern Railroad Company to bring themselves within the provisions of the Act entitled "An act to establish a system of internal improvements in this State."

Sec. 12. *Be it further enacted,* That this Act shall take effect from and after its passage.

WM. H. WISENER,
Speaker of the House of Representatives.
EDWIN POLK,
Speaker of the Senate.

ACT OF FEBRUARY 17, 1854.

AN ACT to amend the charter of the Memphis and Somerville Turnpike Company, and for other purposes.

. . . .

Sec. 5. *Be it enacted*, That the fourth section of an Act to establish a system of internal improvements in this State be amended by striking out the word *twenty* wherever it occurs in said section, and inserting the word *ten*, so as to allow all the railroad companies entitled to the benefits of said act, and an Act, passed February 8, 1854, as an amendment thereto, to obtain the bonds of the State upon sections of *ten* miles instead of *twenty* miles, after the first section of thirty miles has been completed.

WM. H. WISENER,
Speaker of the House of Representatives.
EDWIN POLK,
Speaker of the Senate.

ACT OF JANUARY 19, 1855.

AN ACT to amend the Internal Improvement Acts of 1852 and 1854.

Sec. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That hereafter it shall not be necessary for the Engineer-in-Chief to swear to the subscription list, solvency, and condition of any railroad company applying for State aid, but the oath required of the Engineer shall be taken by the President and Treasurer of the company, whose duty it is to know of the condition, solvency, and financial affairs of said company.

Sec. 2. *Be it further enacted*, That it shall be lawful and proper for the East Tennessee and Virginia Railroad Company to lay down iron at either end of said road, and to draw the bonds of the State according to the General Internal Improvement Act, passed February 11, 1851–2, and the Act of February, 8, 1853–4.

Sec. 3. *Be it enacted*, That the fifth section of the Act of February 17, 1854, be so amended that hereafter the bonds of the State may issue for ten miles or more of road graded, as required by existing laws, after the completion of the first thirty miles.

Sec. 4. *Be it further enacted*, That so much of the General Internal Improvement Acts of 1851–2, and 1853 and 1854, as requires the several railroad companies embraced within the provisions of the aforesaid Acts to have the bridges, abutments, and embankments on the several sections of their respective roads completed before the bonds of the State shall issue to the companies of said roads, be so amended as to accept those bridges, abutments, and embankments which have been provided with State aid.

Sec. 5. *Be it enacted,* That this Act shall take effect from and after its passage.

NEILL S. BROWN,
Speaker of the House of Representatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

Exhibit C.

$1,000. $1,000.

No. UNITED STATES OF AMERICA. No.

Know all men by these presents: That the State of Tennessee acknowledges to owe to , or order, One Thousand Dollars of the lawful money of the United States of America, which the said State promises to pay in the city of New York, on the day of , 18 , with interest thereon, at the rate of six per cent. per annum, according to the tenor, and upon the presentation of the coupons hereunto attached. For the payments of said sums of money, and the interest thereon, at the times and places, and in the manner aforesaid, the faith of the said State of Tennessee is irrevocably pledged, this bond being issued in pursuance and by authority of an act of the General Assembly of said State, passed February 11th, 1852, to establish a system of Internal Improvements in said State.

In testimony whereof, and in pursuance of the acts aforesaid, I, , Governor of the State of Tennessee, have hereunto subscribed my name officially, and caused the same to be countersigned by the Secretary of State, with the great seal of the State affixed.

[ ] Done at the Executive Department in the city of Nashville, this day of , 18 .

To which was attached the following form of coupon:

30. The Treasurer of the State of Tennessee. **30.**

Will pay the bearer Thirty Dollars, in the city of New York, on the first day of January, 1877, being the semi-annual interest then falling due on bond No.

J. C. SUTTRELL, 30.
Comptroller.

Exhibit D.

ACT OF JULY 5, 1870.

AN ACT authorizing the sale and transfer of the interest of the State in delinquent railroad companies.

WHEREAS, Under an act of the General Assembly of the State of Tennessee, passed December 7, 1867, entitled "An Act to amend the Internal Improvement Laws of this State, passed February 11, 1852," the Governor, Secretary of State, and Comptroller are empowered, in their discretion, upon the failure of any of the railroad companies mentioned in said act, "for two consecutive years, to pay the interest that may accrue upon the bonds loaned to them severally," to sell the railroad track, railing, rolling stock, etc., upon such terms and conditions as they may deem best to secure the interest of the State, "and shall retain of the proceeds of said sale the amounts loaned to said companies, and the interest due on the same, with expenses of said sale;" and,

WHEREAS, "The time has arrived when it is necessary to protect the interests of the State, and to secure the State from loss, in consequence of the issuance of bonds to the several railroad companies of the State, that a sale should be made of the interest of the State in each and every railroad company in this State, which has heretofore failed to pay the interest that has accrued on the bonds of the State loaned to it, or which may hereafter fail to pay the interest as it accrues on the bonds of the State loaned to it;" and,

WHEREAS, It is important to relieve the people of the burden now upon them, and by wise legislation endeavor to restore the public credit, which can be done by a proper enforcement of the legal rights of the State of Tennessee as against said railroad companies so in default; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Governor of the State, Secretary of the State, and Comptroller of the Treasury, and Robert J. McKinney, of Knox county; Francis B. Fogg, of Davidson county, and Archibald Wright, of Shelby county, be, and the same are hereby appointed commissioners to sell the interest of the State of Tennessee in all the railroad companies of the State, "to whom the bonds of the State have been loaned, by the act of December 7, 1867, or former acts, and which have failed, for two consecutive years, to pay the interest that have accrued upon bonds loaned to them severally;" and also in all railroad companies that may hereafter fail to pay the interest that may, or has, accrued on the bonds loaned to them severally, or that are now in default of payment of the interest which has accrued upon the bonds loaned to them severally, with full authority to make and perfect said sales in all cases where the said commissioner can dispose of the interest of the State of Tennessee in the defaulting railroad, for a sum of money equal to the amount of the bonds of the State of Tennessee, with unpaid interest due upon them, and which bid may be discharged and satisfied by an equal amount of the bonds of the State of Tennessee, with accrued interest, legally issued by the State of Tennessee, in aid of said railroad company, or for any other purpose, and with full power to place the purchaser or purchasers in the quiet possession of the railroad so purchased.

Sec. 2. *Be it further enacted*, That if any receiver, who shall have control of any or either of the railroads of the State, and which road may be sold by the commissioners, under the first section of this act, shall refuse to give possession of said railroad track, railing, rolling stock, etc., to the purchaser, upon demand the Governor of the State shall issue his warrant to the sheriffs of the different counties through which the road may run, commanding them to put the purchaser or purchasers in possession of the railroad, its property and effects, and the receivers so refusing shall be guilty of a high crime, and, upon conviction, shall be fined in a sum of not less than one thousand dollars, and imprisoned at the discretion of the court.

Sec. 3. *Be it further enacted*, That in the event said commissioners can not sell said defaulting railroads, or either of them, for the amount and upon the terms as prescribed in the first section of this act, then the said commissioners are authorized, after giving such public notice as they may deem advisable or necessary, to receive sealed bids from any person, persons, or corporation for the purchase of either of the delinquent railroads of the State, and, after giving thirty days' notice of the time and place, shall open the bids so made, and the said commissioners will report to this or some subsequent General Assembly the best bid offered, with such recommendation as to them may seem best for the interest of the State, for the approval or rejection of the General Assembly.

Sec. 4. *Be it further enacted*, That no less than four of the commissioners named in this act shall be competent to perform any duties required by this act.

Sec. 5. *Be it further enacted*, That the commissioners, in making a sale of the interest of the State in any of the railroads, shall give the preference to the purchaser or purchasers, who will obligate himself or themselves, to operate the road so purchased over its entire line, from terminus to terminus; and that as the public welfare demands it, this act shall take effect from and after its passage.

Passed July 1, 1870.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.
D. W. C. SENTER,
Governor.

ACT OF DECEMRER 22, 1870.

An Act to Amend the Act of 1870, chapter 79, for the sale of Interest of the State in Delinquent Railroad Companies, passed July 1, 1870.

WHEREAS, In the recent attempt to sell the State's interest in said roads, various legal questions arose, presenting serious obstacles to a sale under the act of 1870, which it is deemed expedient and necessary to obviate before the interest of the State in said roads shall be again offered for sale; and, *whereas*, by the act of 1862, chapter 151, section 12, the right is expressly reserved to the State to enact all such laws in the future as shall be deemed necessary to protect the interest of the State, and to secure the State against any loss in consequence of the issuance of bonds under the provisions of said act, in such manner as not to impair the vested rights of stockholders of the companies, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That a bill shall be immediately filed in the Chancery Court at Nashville, in the name and on behalf of the State, to which all the delinquent companies, the respective stockholders, holders of the bonds, creditors, and all persons interested in the said several roads, shall be made parties defendant, and shall be brought before the Court, in the mode prescribed by the rules of practice in chancery established in the State, except as otherwise herein provided. And said Court is hereby invested with exclusive jurisdiction to hear, adjudicate, and determine all questions of law and matters of controversy, of whatever nature, whether of law or of fact, that have arisen or that may arise touching the rights and interest of the State, and also of the stockholders, bondholders, creditors and others in said roads; and to make all such rules, orders, and decrees, interlocutory and final, as may be deemed necessary in order to a final and proper adjustment of the rights of all the parties, preliminary to a sale of the interest of the State in said road. Also, to declare the exact amount of indebtedness of each of said companies to the State; and likewise to define, as may be thought proper, what shall be the rights, duties, and liabilities of a purchaser of the State's interest in said roads, or either of them, and what shall be the reserved rights of said companies, stockholders, and others respectively, as against said purchasers, after such sale, under the existing laws of this State.

SEC. 2. *Be it further enacted*, That the judge of said Court is hereby empowered, and specially requested to appoint a special term of said Court, to be held on the first Monday in March, 1871, for the purpose of expediting a speedy determination of the various matters contemplated by this act; and it shall be the duty of the clerk of said Cuort, immediately on the filing of said bills, to issue process and make publication in the manner before indicated, requiring the defendants to appear at said special term; and the defendants shall be severally required at said term to put in such defense to said bills as they may respectively deem proper, provided that it is consistent with the code. And in order to save expense, said parties, or any of them, may, in person or by attorney, with the consent of the attorney for the State, make an agreed case, submitting all such questions as they may think proper, to the immediate decision of the Court. And it is further provided, that in the discretion of the Court, formal pleadings may be dispensed with by a simple statement on the record of the points or matters relied upon by the parties, and sought to be decided by the Court.

Sec. 3. *Be it further enacted,* That if an account, on behalf of either of the parties, shall seem to the Court proper and necessary, touching any matters of fact in issue between the parties, an immediate reference of the same shall be made to the clerk and master, or, if thought preferable, to such special commissioner as the Court may appoint, who shall proceed at once to take such account, and make a report to an adjourned term of the Court, within such period as the Court shall limit, not exceeding twenty days from the date of the decree ordering the account. And at such adjourned term final action shall be had upon said report. But the taking of such account shall not postpone the determination of all such questions of law presented by the parties as are not involved in the matters of account ordered to be taken.

Sec. 4. *Be it further enacted,* That competent counsel shall be retained on behalf of the State, by the commissioners, whose duty it shall be, immediately on the passage of this act, to file a bill in said Chancery Court, so framed as to elicit a determination by the Court of all questions of law and matters of controversy now existing, or that may hereafter arise between the State and any or all of the parties interested in said roads, and to conduct the suit and superintend its progress, with a view to the speediest practicable determination; and for such services said counsel shall be paid a fair compensation out of the public treasury.

Sec. 5. *Be it further enacted,* That, upon a final decree being made by the Chancellor, settling the rights of the parties, either party shall have the right of appeal on writ of error to the Supreme Court, in the usual mode, except that the time for prosecuting a writ of error is hereby limited—in view of the urgent public necessity for a speedy determination—to thirty days from the final decree, and in case of an appeal or writ of error to the Supreme Court, a transcript of the record, or such part thereof as may be thought necessary, shall be filed in the office of the Supreme Court at Nashville, within said period of thirty days.

Sec. 6. *Be it further enacted,* That in the case of an appeal or writ of error to the Supreme Court, as herein provided for, the judges thereof, in view of the pressing exigencies of the State, are hereby specially empowered, and respectfully requested, as soon as the transcript of the record shall be filed in the office of said Court, if then in session, to take up and finally dispose of the case, in preference to all other cases on the docket, and if not in session, to appoint a special term for the immediate hearing of the same.

SEC. 7. *Be it further enacted,* That in case any of the said railroad companies should decline a contest with the State in regard to the sale of the State's interest in their roads, a sale may at once be made, and, upon the final determination of any controversy that may arise between the State and any of said railroad companies in the Chancery or Supreme Court, the interest of the State in such roads shall immediately be brought to sale by the commissioners.

SEC. 8. *Be it further enacted,* That a specific value shall be fixed upon the State's interest in each of said roads by the decree of the Court, and the commissioners shall be authorized to dispose of the same at such valuation, either at public or private sale, as they may judge most advisable; and if a sale of any of the roads can not be made at such valuation, the same shall be sold for the highest price that can be obtained.

SEC. 9. *Be it further enacted,* That the interest of the State in either of said railroad companies may be sold on time, and the amount agreed to be paid by the purchasers may be discharged in any of the outstanding legal bonds of this State; but a sale on time shall be upon the following express conditions: The purchaser at the time of sale shall pay, or deliver to the governor, at least one-fourth of the amount agreed to be paid, in legal bonds of the State, and shall execute a bond with sufficient security to the governor for the delivery of the remainder of the bonds to be paid at intervals of one, two, and three years from the date of the sale, in like legal bonds of the State, and also to pay into the treasury from the time of his purchase an amount equal to the interest accruing semi-annually from the remaining three-fourths of the bonds, to be thereafter delivered by him, until the whole amount shall be delivered to the Governor, said interest to be paid as the bonds mature; and it is expressly declared that the failure of the purchaser to pay or deliver to the Governor any subsequent installment of bonds as above provided, when the same shall fall due, shall work an absolute forfeiture to the State of all and every payment previously made; and, in addition, his interest in such road shall be resold by the commissioners, after forty days' notice, to meet the default in payment by him.

SEC. 10. *Be it further enacted,* That upon the sale of any of the franchises of either of the railroad companies, by the commissioners, under the provisions of this Act, all the rights, privileges, and immunities appertaining to the franchise so sold under its Act of incorporation, and the amendments thereto, and the general improvement law of the State and Acts amendatory thereof, shall be transfered to and vest in such purchaser, and the purchaser shall hold said franchise, subject to all liens and liabilities in favor of the State, as now provided by law against the railroad companies.

SEC. 11. *Be it further enacted*, That whenever hereafter, any existing railroad company, to which bonds of the State have been issued or loaned, or any railroad company to be hereafter created, shall fail to pay the State the interest due thereon, for the benefit of the bondholders, or should fail to pay in as required by law, the sinking fund, they may be proceeded against, in the Chancery Court at Nashville, in the same manner as above provided in regard to existing delinquent railroads.

SEC. 12. *Be it further enacted*, That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed December 21, 1870.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.
D. W. C. SENTER,
Governor.

AN ACT to enable the Railroad Commissioners for the State, for the sale of delinquent railroads, to perfect their sales, and place the purchasers in possession. Passed November 17, 1871.

Whereas, The Commissioners are hindered to some degree in the final consummation of one or more of their contracts of sale, by reason of litigation on the part of adverse claimants; and

Whereas, In one or more instances of sale, the option is reserved to the purchaser or purchasers of taking the interests of the State, in the road contracted to be purchased by him or them; and

Whereas, It is manifestly to the interest of the State that the work entrusted to the said Commissioners should be completed at the earliest day practicable; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That with the view of removing all embarrassments and facilitating the accomplishment of the purposes above indicated, the said Commissioners, viz: the Hons. Robert J. McKinney, Francis B. Fogg, Archibald Wright, the Governor, the Comptroller, and the Secretary of State, or a legal quorum of their number, be and they are hereby authorized and fully empowered to make and carry into full effect, on the part of the State, any settlement or adjustment with parties litigant adversely to the State that to them may seem equitable between the parties, and advantageous to the interest of the State.

SEC. 2. *Be it further enacted*, That in the event the purchaser or purchasers in any of the sales so made by the Commissioners, in which was reserved to him or them the option of taking the State's interest, should elect to take the interest of the State, then the sale is hereby ratified, sanctioned, and confirmed; and said commissioners are authorized and fully empowered to place the said purchaser, or purchasers, in full possession of said road so purchased, and all its appurtenances, in the manner provided for in sections 1 and 2 of an act passed July 5, 1870, entitled "An Act authorizing the sale and transfer of the interest of the State, in delinquent railroad companies," any act, or acts, with regard to the qualification or appointment of receivers to the contrary notwithstanding.

SEC. 3. *Be it further enacted*, That in any instance where the said commissioners, including specially the Governor, Comptroller, and Secretary of State, may have contracted to sell the railroad track, railing, rolling stock, etc., of any railroad company, which, for two consecutive years, prior to said sale, may have failed to pay the interest accrued upon the bonds loaned to it by the State, and which may have accepted aid from the State under an act passed December 7, 1867, entitled an "Act to amend the Internal Improvement laws of the State," passed February 11, 1852, in such case the sale so made shall be valid and operative, *as against the State*, and said company, to all intents and purposes, to transfer (without warranty of title to the interests of said company) said railroad track, railing, rolling stock, etc., to the purchaser or purchasers in said sale.

SEC. 4. *Be it further enacted*, That upon the consummation of the sale of any railroad, or the State's interests therein, that may have been leased by act of the General Assembly, with the reserved right to the State to terminate the same, then the said lease shall instantly terminate, and the State be no further liable for any expenditures by the lessee upon said railroad, nor for any further losses resulting thereafter from the operation of the same.

SEC. 5. *Be it further enacted*, That this act take effect from and after its passage, the public welfare requiring it.

JAMES D. RICHARDSON,
Speaker of the House of Representatives.
JOHN C. VAUGHN,
Speaker of the Senate.

No ....

UNITED STATES CIRCUIT COURT.

Sixth Judicial Circuit, Middle District of Tennessee.

IN EQUITY.

Calvin Amory Stevens, on behalf of the Holders of Internal Inprovement Bonds of Tennessee, issued to the Nashville and Northwestern Railroad Company,

versus

The Nashville and Northwestern Railroad Company et al.

ANSWER.

EAST & FOGG,
R. McP. SMITH,
Solicitors, and of Counsel for Respondents.

THE ANSWER OF THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY (SUMMONED, IN THIS CASE, BY THE NAME OF "THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILROAD COMPANY"), DEFENDANT, TO THE BILL OF COMPLAINT FILED BY CALVIN AMORY STEVENS IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF TENNESSEE.

This respondent, for answer unto so much of said bill as it is advised is material for it to make answer unto, answering, says:

This respondent is a corporation chartered by the General Assembly of the State of Tennessee on the 11th day of December, 1845, to construct and operate a railroad from the city of Nashville to Chattanooga, on the Southern border of the State, by the name of "The Nashville and Chattanooga Railroad Company," its name being afterwards changed to that of "The Nashville, Chattanooga and St. Louis Railway."

On the 22d of January, 1852, the said General Assemby chartered a company to build and operate another railroad from the city of Nashville in a northwesterly direction, "and terminating on the Mississippi River in Obion County," under the name and style of the Nashville and Northwestern Railroad Company.

Whether said Nashville and Northwestern Railroad Company is now a corporation in the State of Tennessee, respondent submits to the Court, under its history, as given herein. Respondent admits that said two companies were endowed with all the capacities and powers charged in the bill.

Respondent admits that on the 11th of February, 1852, the General Assembly passed an act known as the "General Internal Improvement Law," referred to in complainant's bill as "An act to establish a system of internal improvements." This act applied to railroads. Long prior to said act the General Assembly had passed an act relative to giving aid to turnpike companies.

Respondent says that said two acts were passed in obedience to art. XI, sec. 9, of the then Constitution of the State, which was as follows: "A well regulated system of internal improvement is calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens, therefore it ought to be encouraged by the General Assembly."

Respondent admits that the act of the 11th of February, 1852, is substantially set out in complainant's bill, but not that the same is literally set forth, and respondent especially denies the punctuation and italics with which it is set out in said bill, and the construction sought to be put upon the same therein. Respondent will, at the hearing, produce the same, together with its amendments, as published in the statutes of the State.

Respondent is content to deny to complainant the rights he claims under said acts, without specifying herein the arguments or reasons for its conclusion, or taking up said act and its amendments, section by section, and commenting upon the same, but will submit respondent's views in the briefs of its solicitors.

Respondent does not know what bonds, or how many, were issued to said company, or at what time or under what circumstances, or whether the same were lawfully issued or not; nor does it know whether the bonds so issued were sold at par or less; nor does it know whether the officers of the State kept any record of the bonds so issued in any form, nor whether the same can now be traced or identified, nor whether the bonds now claimed by complainant were ever issued to said company; but will require complainant to prove these facts, so far as they are material to his rights.

Respondent says that it is informed, believes, and charges, that the bonds issued in aid of railroad companies by the State were purely and simply State bonds, the State being the payor and the bearer the payee, and were negotiable without endorsement, and that the names of the railroad companies to which they were issued did not appear upon the same in any manner; and respondent admits that Exhibit C to complainant's bill is a true copy of one of said bonds.

Respondent further answering says that the bonds so issued were put upon the market and sold as obligations of the State of Tennessee alone; and respondent says that while the State issued many bonds for different purposes, and many of these were not supported by any lien, real or pretended, all of her bonds sold alike in the market.

Respondent further answering says that none of said bonds were put upon the market and sold, or were negotiated, with the understanding or agreement that the same were secured by any lien whatever, and that the idea of a lien is an afterthought—not conceived until the State became financially disabled, and there arose an apprehension of repudiation, and that even then all the bonds retained the same market value, so far as the question of a lien was concerned, and if there has been any appreciable difference in the value of said bonds, it arose from political considerations solely. The bonds issued for general purposes, the bonds issued to solvent companies, the bonds issued to insolvent companies, were all of the same market value.

Whether complainant has a lien upon said Nashville and Northwestern Railroad or the property of the company, has now become n judicial question.

to be determined upon the acts of the General Assembly relative thereto; and complainant is content to deny said lien, but will cheerfully submit said acts to the Court.

Respondent has always understood that as these bonds were issued to the respective companies when just coming into life and unknown to the money lenders of the world, and having neither property nor reputation to secure the loans, while the State, before the war, was of good repute in the money markets of the world, its bonds selling at par or nearly so, the State made and issued her obligations and put the same in the hands of the company or its officers, as set out in said acts, to be sold and the proceeds applied as directed therein; and to secure herself as *creditor* of the companies she retained a lien in her own favor, and coupled the issuance of the bonds and the rights of the subsequent holders thereof, with the right on her part "to enact all such laws as may be deemed necessary to protect the interest of the State, and to secure the State against any loss in consequence of the issuance of bonds under the provisions of this act, but in such manner as not to impair the vested rights of the stockholders of the companies."

It is certain that the most casual reading of said Act of February 11, 1852, and its amendment, will disclose to the reader the fact that the *State* did preserve a lien to herself as *creditor*, not as endorser or surety, and it would be somewhat surprising if the bondholders have a lien also, as we should then have two independent liens arising upon the face of the same act and by the same words. Sec. 3 of said act does declare "that so soon as the bonds of the State shall have been issued for the first section of the road as aforesaid, they shall constitute a lien upon said section, etc." But in whose favor does this lien arise? Said section declares, "and the *State of Tennessee* upon the issuance of said bonds, *and by virtue of the same*, shall be invested with said lien or mortgage without a deed from the company, for the payment by said company of said bonds, with interest thereon as the same becomes due." Sec. 4 of said act, among other things, provides that the State's lien shall have *priority* over any other lien, and that any such lien "shall be null and void as against said lien or mortgage of the State, and the said lien or mortgage of the State shall have *priority over all other claims existing or to exist against* said company." If complainant can establish any lien whatever, it must, if there be any power in language, be subordinate to that of the State. If complainant has any "claim" against said road or its property, no matter when the same came into existence, it must yield to the "priority" of the State. Complainant submits to the Court whether said act and its amendments do not clearly assert the State's lien upon the road, its property, etc., and the priority of the same, over all other claims or liens; and this being true, whether it is necessary thereafter ingeniously to construe the statute to ascertain whether by some verbal legerdemain it connot be made to yield a lien by implication in favor of some one else.

Respondent has no knowledge, information or belief as to the number of bonds now outstanding against said company, and will require complainant to prove the number held by him as claimed, and to identify them. Respondent admits that said Nashville and Northwestern Railroad Company has paid neither interest nor sinking fund, and that the State has paid no interest from January, 1876, to the present time.

Respondent denies that either the company or the State ever conceived the project of avoiding the liabilities of the corporation or of enabling the State to reduce her unsecured debt at the expense of the holders of the internal improvement bonds.

Respondent denies that it was ever supposed in Tennessee by the Legislature, that the lien on the railroads was other than the absolute property of the State. The claim on the lien on behalf of the State has been asserted in almost every act relating to the subject of State aid to railroad companies passed since the incorporation of the Nashville and Northwestern Railroad Company. Respondent admits that Exhibit D to complainant's bill is a true copy of the acts of the General Assembly which it purports to give in relation to the sale of the roads, but insists, and will show at the hearing, that these are not all the acts on that subject, but that the determination to sell said roads originated and was enacted as early as December 7, 1867, and not as complainant alleges on the 5th of July, 1870.

Respondent knows nothing of the number, residence or names of persons holding any of said bonds.

Respondent says that heretofore, on the ——day of ————, 18—, the said Nashville and Northwestern Railroad Company, because of its failure to comply with the internal improvement laws, and because it had made default in paying according to said laws, interest or sinking fund, was, by virtue of said laws, put into the hands of W. P. Jones, as receiver of the State, and afterwards into the hands of D. B. Cliffe, as receiver, and, it may be, into the hands of other persons as such receivers, and was operated by said receivers.

Respondent further says that said road was operated by receivers as aforesaid at a great loss to the State and those interested; that it wholly failed to pay expenses, and that it became necessary for the State to make some disposition of the same in order to prevent a ruinous loss. Thereupon the State and the stockholders determined to lease the same, as it had but little rolling stock and credit, and, being out of repair, had become proverbially dangerous to persons passing over the same. In this condition of affairs a lease was made of said road, etc., to the Nashville and Chattanooga Railroad Company. Said lease commenced September, 1868, and continued until January, 1870, a period of sixteen months, and was operated at an excess of expenses over receipts of $31,828.10; and under a second lease said road was operated from January 1, 1870, to June 30, 1871, at an excess of expenditures over receipts of $377,079.23. This respondent expended upon said road, over and above receipts, from July 1, 1871, to 30th of June, 1872, $476,957.25, making a total spent by respondent, over and above all receipts, of $885,864.54.

The receivers appointed from time to time to operate the delinquent railroads accounted to the State alone, nor was any attempt ever made by any bondholder of the State to hold any of them accountable, nor has any such bondholder ever manifested any concern as to who was appointed receiver of any road, or ever complained of the management of any receiver, though it is perfectly notorious that divers of said receivers were guilty of gross mismanagement, if not of even worse.

Any surplus in the hands of any receiver has always been appropriated by the State to its own uses, but no complaint has ever been made of this by any bondholder, nor has any attempt ever been made to reach the funds in any receiver's hands, though the State at the time made default in payment of the interest on the bonds issued to the particular road, among others.

When the receivers did not realize enough to pay the operating expenses of their roads and to keep them in safe condition, it was notorious that the State frequently made large appropriations of additional bonds to make up the deficiency, thereby increasing the incumbrance upon the roads,—and indeed the indebtedness for which the Nashville and Northwestern Railroad was sold was thus greatly swollen;—yet no bondholder ever manifested the smallest concern at any thing of the kind.

Respondent says that the State of Tennessee was in good credit before 1861-2, and that her bonds sold readily in the markets at par; that during the war the State paid no interest on her bonds, and the railroads no portion of the sinking fund or interest; that few if any of the roads were during this time operated by the companies or receivers, but that they were used by the military forces of the contending parties.

Respondent further answering says that the State, at the conclusion of the war, found her interest unpaid, and many of the railroads to which she had given aid hopelessly insolvent, without rolling stock or other means of operation; and that the respective companies were unable to mend their fortunes or improve their condition. Many railroads thus situated fell into the hands of the State which to meet the emergency appointed Receivers, gave further aid, although her bonds were at a large discount, and did all she could, in every department of the government, to relieve these roads; but all these efforts were futile, and the State had no alternative but to sell said roads. Not a single road in the State that was put in the hands of a Receiver, (and there were many, fully a dozen), paid its expenses, and all were run at an immense loss. The respective companies could not operate them except at a loss. The interest on the State debt was accumulating annually; and the State had been forced to fund the same, amounting to many millions, and thus to swell the principal debt. It was under this condition of distress that the State was compelled to make sale of her roads, and not for the wicked and fraudulent purpose imputed to her in the bill. Respondent denies that the State, in instituting judicial proceedings against said roads to have a sale made of them, acted with any intent to injure or impair the rights of complainant or other bondholders; she sought thereby to discharge herself of her debts, not to release any liens that the bondholders might have. To have held said roads longer would have been suicidal; to have ceased to operate them would have been to connive at and voluntarily permit their total loss. The legislature hoped, and her best citizens expected, that the sales of the roads would enable her to take up a large number of her bonds, and thus prevent the accumulation of interest. The roads did sell for nearly or quite nine millions of dollars, payable in bonds, which were canceled, and no road would now bring, or at any time since would have brought, as much as it sold for at said sale. Respondent denies that the project was conceived, at this time, of treating the lien as the absolute property of the State. Such had always been the conception of the Legislature which enacted the original law and its amendments, and respondent might add, of ninety-nine per cent. of those persons who had thought about the matter. The State, nowhere in the act, is denominated a trustee for the benefit of the bondholder. It is recognized everywhere as *the lien holder;* and such was the contemperaneous and subsequent understanding. Respondent says that so far from its ever having been conceived that the bondholders had any lien, the latter idea only originated after the State stopped payment and allowed herself to be presented as likely to repudiate, and countenanced the notion that the entire debt of the State might be put upon the railroads, and the people exempted from its payment. Respondent admits that this view has met with some individual and official favor in the State not wholly unexpected, and complainant may find some comfort in this fact; and doubtless some persons have already persuaded themselves, if not others, that such has been *their* opinion all along.

Respondent denies all the insinuations of fraud or fraudulent projects or conceptions on the part of the State in selling said roads as she did.

Upon the theory now put forward by complainant, that the State was but a trustee for the benefit of the bondholders, she could have done no less. Here was a dozen railroads or more, to which she had before the war advanced her bonds amounting to many millions of dollars. Crippled and broken down by the war, and otherwise, she applied the statutory remedy of Receivers; she called to her aid the stockholders and directors, tried leases, advanced millions more, which as trustee she was not bound to do; and when all her efforts failed she had but one alternative left—either to allow the property to waste and go to ruin, or to sell it.

In the original acts under which the bonds were issued, she had preserved her right to legislate further, so as to save herself from loss. The time had arrived when it became absolutely necessary to exercise this right, not only to save herself in fact, but to make this vaunted security available, and prevent its waste and destruction. Respondent says that it was under these circumstances and conditions that the State passed the several acts looking to a sale of said roads.

Respondent admits that under said acts a bill was prepared and filed in the Chancery Court at Nashville, January 20, 1871, against the delinquent railroad companies and the other persons mentioned therein, and that the Nashville and Northwestern Railroad

Company was made a party thereto, and says that publication was made for the bondholders and other unknown or non-resident parties, in the mode usual in equity cases of a similar character; that the cause proceeded to a final hearing, and a sale was made of said road on — day of November, 1871, to respondent, at the sum of $————, payable in the bonds of the State of Tennessee; and respondent has paid the same. Respondent here files as a part of this answer a perfect copy of said record marked Exhibit X, and pleads and relies upon the same, as a purchaser for value and in good faith.

Respondent does not feel called upon to answer the criticism of complainant upon said proceedings, much of which has no application to this case.

The said Chancery Court at Nashville belonged to the general judicial system of the State, and was not a special court created for the occasion. In its organization it was assigned to a territorial division, in which division was the chief office of said Nashville and Northwestern Railroad Company, and much of its road bed, and the residence of its chief officers. Had this not been true, respondent submits to the court, whether a State is bound by the laws of venue, created and established for the convenience of its citizens and litigants, and whether it may not institute litigation in its own behalf at any point it may choose to select in the State.

Respondent submits to the court whether, in a proceeding such as is presented in Exhibit X, to enforce liens or trusts upon realty, or a railroad in the State, when the parties are non-residents, numerous and unknown, and are brought before the court by publication, or other substitute for service of process, and the property seized and sought to be reached is under the control of the court, and judicially condemned and sold, the title thereto does not pass to the purchaser at such sale.

Respondent admits that the presiding Chancellor had, before said proceedings were commenced in said court, expressed, by endorsement upon the back of a manuscript opinion prepared by a distinguished lawyer of Alabama, his belief that the State had the sole lien upon the railroads, but he was not at that time the attorney of the railroad company with reference to which said opinion was expressed, nor was he before or afterward, nor was said railroad company a party to said suit subsequently, nor was said opinion prepared to be distributed in Tennessee, nor was it distributed in said State; but it had been prepared by an Alabama lawyer, and sent to Ed. Baxter, the attorney of said company at Nashville, to be examined by him, and such other lawyer as he chose to submit it to, and then to be forwarded to New York, to distinguished lawyers resident in that city, who had been called upon to examine the question of the bondholders' lien, and to determine the priority of a mortgage which the company proposed to execute, and did execute, and with the proceeds took up the State's debt against the same. Neither respondent nor any of its officers ever saw said opinion, and they do not believe that any member of the Legislature ever saw the same, as it was only published in pamphlet form, and the number was very limited. To show conclusively that said opinion did not operate upon the mind of the Legislature, long before it was given, and on the 7th of December, 1867, the State had passed an act, which is quoted in the preamble to the act of July 5, 1870, set out in Exhibit D to complainant's bill, "empowering the Governor, Secretary of State and Comptroller, in their discretion, upon the failure of the railroad companies mentioned in the act for two consecutive years to pay the interest that may accrue upon the bonds loaned to them severally, to sell the railroad track, railing, rolling stock, etc."

Respondent says that all of the acts passed by the Legislature to sell said defaulting roads, commencing with the act of December 7, 1867—including the act of July 5, 1870, and the act of December 21, 1870—were each and all passed in pursuance of the right secured to the State under the original act, to enact all such laws in the future as shall be deemed necessary to protect the interest of the State, and to secure the State against loss in consequence of the issuance of bonds. In this the State was left to determine what enactments were necessary to protect herself. She did not limit herself to any particular enactment. As the original act had given her the right to appoint receivers in case of default, the rights she reserved must have been something more. If complainant and the other bondholders had liens as claimed, and the State was but a trustee, then by virtue of this law the State was empowered to act with the *rem*, as she deemed necessary to protect her interest, and secure herself against partial or total loss. Respondent is at a loss to conjecture what this reservation was intended for, if not for the purpose indicated herein. So, that even if complainant had a lien originally, the very act which gave such lien empowered the State, if it was deemed necessary, to pass an enactment to secure herself as the payor of the bond, and subordinated this lien to the State's subsequent necessities and discretion.

But respondent has so far been considering complainant's rights as based upon the act of February 11, 1852. Respondent now denies that said act governs any bonds held by complainant, as it is informed and believes that no bonds were issued to the Nashville and Northwestern Railroad Company under that act, and that the bonds issued first to said company were issued December 22d, 1859, at which time said original act had been greatly modified and changed, and several of the features thereof, brought out in italics by complainant, had been repealed or amended.

Respondent says that so far from the State's having been actuated by the motives ascribed to it by complainant, the report of the Comptroller shows that to aid and help the defaulting railroad companies, after the close of the war, she issued to them bonds as follows:

Edgefield and Kentucky,	$ 525,000
Nashville and Northwestern,	1,767,000
Memphis, Clarksville and Louisville	540,000
McMinnville and Manchester,	400,000
Winchester and Alabama,	856,000
Southwestern,	503,000
Knoxville and Kentucky,	2,150,000
Knoxville and Charleston,	816,500
Cincinnati, Cumberland Gap and Charleston,	1,241,000
Rogersville and Jefferson,	226,000
Total	$8,024,500

As before stated, on the theory of complainant, that the State was a trustee for the bondholder (as such she was not bound to uphold and support the trust property by additional aid) it must be marvelous that she did make these large advances. And she did more: she funded twice the unpaid interest due on the bonds she had issued before the war to the companies mentioned above, as well as the interest on these bonds issued since the war, making many millions more, besides making two payments of interest on each. Never did a trustee make such large investments to preserve the trust property for another. The State literally exhausted herself in her efforts to preserve these railroads, and sold them only when she could no longer hold them. Certainly, complainant was not aware of these facts when he charged the State with concocting fraudulent and dishonorable schemes to injure the bondholders. If the court should hold that the State was a trustee, and that under the enlarged powers she reserved to legislate in the future, she did expend large sums to preserve the trust property, prudently and in good faith, then she had the right to reimburse herself out of the proceeds of the sales; and certainly, in order to prevent waste and loss to said property, to sell the same as she did.

Respondent says that the State of Tennessee is a necessary party to the bill of complainant, being interested in the subject matter of the suit. If complainant desires a receiver, the act under which he claims points out the mode of obtaining the same, and is his exclusive remedy, unless he can show by proper averments that the officers of the State whose duty it is to put in force the statutory remedy cannot be sued in this case, or have been applied to in the mode pointed out in the statute; and respondent submits whether the averments of complainant on these points are sufficient in law to give this court jurisdiction.

Respondent, further answering, says that the Nashville and Northwestern Railroad Company did receive bonds to the amount of $350,000 under the act of December 7th, 1867, and that by virtue thereof it became amenable to the section of said act, which is to the effect that any railroad company receiving bonds thereunder and then failing to pay the interest thereon for two consecutive years, shoud be sold; and said railroad did fail to pay interest as required, and thereby became liable to be proceeded against for the entire indebtedness. As respondent has not indicated what bonds he holds, so that the defendant can trace or identify them, or ascertain whether they were issued under the original act of 1851-2, or that act as modified before aid issuance, or whether or not they were issued in the of a bridge, which fact, complainant insists, will vary the alleged lien as to the property upon which it is claimed to exist, respendent asks that complainant be required either to file the same or give such particular description of the same upon the records of of the court as will enable them to ascertain how these matters are.

Respondent further answering would show that, as it is informed, complainant is, and has been, the secretary of an association in the City of New York representing the great bulk of the bonds of the State of Tennessee issued to railroad companies by the State of Tennessee, and that he and the said association have been perfectly familiar with the claim of said State to the exclusive benefit of said lien, as evidenced by nearly every statute upon the subject of State aid to internal improvements. It was notorious, and was well known to them, that for several years prior to the actual sale of the delinquent railroads, it was the intention of said State to enforce its lien, claimed exclusively as aforesaid, by a sale of said roads. From the passage of the act of February 25, 1869, to the sale of the Nashville and Northwestern Railroad in November, 1871, nearly three years elapsed, during which divers acts were passed in furtherance of this intention, creating a commotion with which the entire railroad world was astir. The proceedings to effect a sale of the delinquent railroads was notorious, and were well known to complainant and his associates. They were well aware, as everyboby else even remotely interested, that in consequence of the purchases of said roads, to be paid for in Tennessee bonds, the bond markets in New York and elsewhere were greatly excited,—and that immense fluctuations occured in the prices of Tennessee bonds—in a short period some $9,000,000 of such bonds being purchased by respondents and others in open market with the avowed purpose of using them in payment for said railroads including The Nashville and Northwestern Railroad,—such payments being claimed to be in full discharge of the lien of the State of Tennessee.

It was notorious, and perfectly well known to complainant and his associates, that the purchasing companies, including respondent as the purchaser of The Nashville and Northwestern Railroad, were claiming to have purchased the delinquent roads, including that last named, *free from every encumbrance*, and that in order to raise the means wherewith to procure the necessary State bonds to pay their purchases, they were issuing their own bonds, *purporting to be first liens* upon the purchased roads—the amount of such railroad bonds so issued being some $20,000,000, which were sold in open market mainly in New York City,—this respondent so issuing and selling some $7,000,000 of such bonds, purporting to constitute a first lien on The Nashville and Northwestern Railroad, and containing on their face the certificate of the Secretary of State of the State of Tennesee that the State's lien upon said road was discharged.

Complainant and his associates passively suffered, without any protest, said bonds to be so sold, and they are now outstanding in the hands of *bona fide* holders for value.

The purchasing companies, as was notorious, and well known to complainant and his associates, including respondent as the purchaser of The Nashville and Northwestern Railroad, went into the possession of their purchases, claiming them free of every incumbrance; and, finding them in wretched condition, expended enormous sums in repairing,— in some instances, as in that of the Nashville and Northwestern Railroad, almost reconstructing them,—and they have since been at great expense in developing their business.

Yet down to the commencement of this suit—some ten years after the passage of the act of February 25, 1868,—not a single bondholder of the State of Tennessee ever took any step, or uttered any word, showing that he supposed that he had the smallest concern in any of the foregoing matters; and respondent insists that, other questions aside, after such laches, complainant should not now be heard to set up this stale and discredited demand.

And now having fully answered, respondent prays to be hence dismissed with costs.

EAST & FOGG, } *Solicitors.*
R. McP. SMITH, }

UNITED STATES CIRCUIT COURT, 1

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

In Equity.

CALVIN AMORY STEVENS, on behalf of the Holders of Internal Improvement Bonds of Tennessee issued to the Nashville and Northwestern Railroad Company, 2

versus

THE NASHVILLE AND NORTHWESTERN RAILROAD COMPANY, and THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILROAD COMPANY. 3

The repliant, saving and reserving to himself all
and all manner of advantage of exceptions to the
manifold insufficiencies of the said answer, for repli-
cation thereunto saith, that he will aver and prove
his said bill to be true, certain and sufficient in the
law to be answered unto; and that the said answer 4
of the said defendant is uncertain, untrue and in-
sufficient to be replied unto by this repliant; without

this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable Court shall direct; and humbly prays as in and by his said bill he hath already prayed.

E. L. ANDREWS,
Solicitor for Complainant.

United States Circuit Court,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

[*In Equity.*]

CALVIN AMORY STEVENS and JOHN T. TERRY, on behalf of the Holders of Internal Improvement Bonds of Tennessee, issued to the Nashville and Northwestern Railroad Company,

versus

THE NASHVILLE & NORTHWESTERN RAILROAD COMPANY *et al.*

To the Honorable the Judges of the Circuit Court of the United States for the Sixth Judicial Circuit and Middle District of Tennessee:

The petition of JOHN T. TERRY to your Honors respectfully shows—

That your petitioners are owners and holders of Internal Improvement Bonds issued on account of the Nashville and Northwestern Railroad Company for the construction and equipment of its said road.

Your petitioner's said bonds are identified and numbered according to the description in the bill in this suit, and have the like number of overdue and unpaid coupons attached thereto. The schedule hereto attached and prayed to be taken as a part of this petition exhibits their ownership and holdings of said bonds.

Your petitioners likewise constitute a majority of the Committee of Tennessee Bondholders, representing thirty-nine (39) owners and holders of Internal Improvement Bonds of Tennessee issued to the Nashville and Northwestern Railroad Company, owning and holding one hundred and sixty-five bonds issued to said company by the State of Tennessee.

Your petitioner desires to unite in the prosecution of the bill herein, and to be joined as co-complainant, according to the frame of the suit and the course and practice of this Court, with leave to amend the title and formal allegations of the bill to conform to this petition. A copy of said amendments is hereto attached..

And your petitioner accordingly prays for the foregoing relief and such other order as may be appropriate in the premises.

EDWARD L. ANDREWS,
Solicitor and of Counsel for Petitioner.

UNITED STATES OF AMERICA, } ss.:
Southern District of New York.

On this 19th day of August, A. D. 1879, before me personally appeared JOHN T. TERRY, who, being duly and severally sworn, says, each for himself: That the matters and things stated in the foregoing petition are true, so far as the same are stated of his own knowledge, and so far as stated on information and belief he believes them to be true.

WILLIAM H. DE LANCY,
Notary Public,
Westchester County.
Acting in New York County under and by virtue of Chapter 807 of the Laws of 1873 of the State of New York.

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT — MIDDLE DISTRICT OF TENNESSEE.

[*In Equity.*]

CALVIN AMORY STEVENS and JOHN T. TERRY, on behalf of the Holders of Internal Improvement Bonds of Tennessee, issued to the Nashville and Northwestern Railroad Company,

versus

THE NASHVILLE & NORTHWESTERN RAILROAD COMPANY *et al.*

On the foregoing verified petition, and on motion of Edward L. Andrews, Solicitor for Complainants,

It is ordered, that John T. Terry be, and the same is, hereby admitted as co-complainant in this suit, and the formal amendments attached to the said petition are hereby allowed.

Aug. 20, 1879.

W. STRONG, *J.*

Middle District of Tennessee:

I, Lewis T. Baxter, Clerk of the Circuit Court of the United States, for said district, do hereby certify that the foregoing is a true and perfect copy of the petition of John T. Terry, to be admitted as co-complainant in the above-entitled cause, together with the copy of the order of the Court thereon, as the same appears on file in my office.

Witness my hand and the seal of said Court, at Nashville, this 30th of August, 1879.

[L.S.]

LEWIS T. BAXTER,
Clerk,
By E. R. CAMPBELL,
Deputy Clerk.

CIRCUIT COURT OF THE UNITED STATES.

SIXTH JUDICIAL DISTRICT,

MIDDLE DISTRICT OF TENNESSEE.

[*In Equity.*]

CALVIN AMORY STEVENS and JOHN T. TERRY, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Nashville and Northwestern Railroad Com-Company,

versus

THE NASHVILLE & NORTHWESTERN RAILROAD COMPANY, and THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILROAD COMPANY.

Amendments to Bill.

On page 17, at the end of the fourth paragraph after the number "1860," insert

"Your orator, John T. Terry, is the owner and holder of (22) twenty-two of the said bonds, and which are alike in character and description to the bonds of your orator Stevens as above set forth."

In the last paragraph on the same page after the word "orators" insert the words "Stevens and Terry," and after the word "likewise" on the same line insert the word "respectively."

After the word "bonds," on the second line of the same paragraph, insert the words "alleged above as belonging to them respectively."

On the second line of the eighteenth page, thirty-seven lines from the bottom of the page, insert the following:

"The said bonds are numbered and identified respectively as follows: Those belonging to John T. Terry are numbered 86, white bonds, series C; and numbers 11,420, 11,522, 11,534, are white bonds, series B; and numbers 207, 2,363, 2,391, 3,733, 4,147, 5,637, 8,228 are green bonds, series "No letter;" numbers 152, 183, 185, 3,222, 3,357, 3,381, 3,435, 3,465 are green bonds, series B.

At the end of the word "orator," wherever it occurs in the bill, add the letter "s"; and after the name "Stevens" add the following: "John T. Terry."

Make the pronoun and verb to which the word "orators" relates plural, instead of the singular number.

EDWARD L. ANDREWS,
Solicitor for Complainant.

United States Circuit Court, 1

MIDDLE DISTRICT OF TENNESSEE.

IN EQUITY.

THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY, IN THE CASE OF THE NASHVILLE AND NORTHWESTERN RAILROAD COMPANY, 2

ads.

CALVIN AMORY STEVENS AND ANO.

3

Answer to Amended Bill.

EAST & FOGG,
R. McPHAIL SMITH,
Solicitors and of Counsel.

4

5

IN THE

Circuit Court of the United States

FOR THE MIDDLE DISTRICT OF TENNESSEE.—SIXTH JUDICIAL CIRCUIT.

6

IN EQUITY.

The answer of the **NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY**, in the case of the **NASHVILLE AND NORTHWESTERN RAILROAD COMPANY**, defendant, to the bill of complaint, as amended, of Calvin Amory Stevens and John T. Terry, on behalf of themselves and the other
7 holders of the Internal Improvement bonds issued by the State of Tennessee to the Nashville and Northwestern Railroad Company, who may come in and contribute to the expenses of the litigation against the said defendant.

This defendant, answering the said bill as amended, here repeats and makes part of this answer the original answer which it heretofore filed
8 to the said bill before the amendment thereof as such bill was filed by the said Calvin Amory Stevens, without joining the said John T. Terry, the now co-complainant, and a printed copy of which original answer is hereto annexed, and everything in the said original answer contained, as fully and with like effect as if such original answer and everything therein contained were set forth at large and embodied in this

answer, and, in addition thereto, this defendant 9
hereby makes the like allegations, statements, objections, defences and claims respectively as to and in respect of and against the complainants in the bill as now amended, and each and every of them, and as to and in respect of the Tennessee State bonds and the coupons thereof by the amended bill alleged to be held or owned by the complainants respectively, or by any of them; and as to and in respect of all former owners and holders of such bonds respectively, or the coupons thereof; and as to and in 10
respect of all and each of the claims asserted in the bill as amended by or on behalf of the complainants respectively, as in the said original answer filed by this defendant were contained, as to or in respect of or against the said original complainant, Calvin Amory Stevens, or as to or in respect of the Tennessee State bonds or the coupons thereof, in the said original bill alleged to be owned or held by him, or as to or in respect of any former owner or owners of such bonds or coupons respectively; or as to or in 11
respect of all and each or any of the claims asserted by the said Calvin Amory Stevens, in his said original bill; and this defendant hereby repeats and makes the said original answer, and everything therein contained, applicable to the present complainants and each of them, and to the bonds and coupons alleged to be owned or held by them respectively, and to the alleged claims and causes of suit now alleged by the complainants, or any of them, as fully and completely as the same were by said original answer 12
applicable to said Calvin Amory Stevens and the bonds and coupons alleged to be owned or held by him, and the alleged claims and causes of suit which were set forth in his said original bill.

And this defendant, further answering the said bill, as now amended, makes additional answer thereto as follows:

13 This defendant has no knowledge or informa-
tion that the complainants, respectively, or any or
either of them are, or at the time of the filing of the
bill, or of the amendment thereof, by bringing in the
new complainants, were the owners or holders of the
bonds of the State of Tennessee issued to
the Nashville and Northwestern Railroad Com-
pany, or any of the same, or of the coupons
thereof, or any of the same, which in the
bill, as amended, are alleged to be held
14 or owned by the complainants, respectively; and
these defendants are wholly ignorant and uninformed
of the truth of the allegations of the bill, as amended,
in this behalf, save that it has been informed,
and believes, and therefore avers, that the com-
plainant, Stevens, was not at the time of
the filing of the bill, nor at the time of the amend-
ment thereof, and is not now the owner or holder
of the said bonds and coupons which he claims to
own, nor of any of the same; and the other
15 complainant, at the time of his uniting in this suit,
was not, and now is not the owner or holder of
said bonds and coupons, which he claims to own,
nor any of the same; and this defendant denies each
and all of the allegations of the bill relating to the
alleged ownership or holding by the complainants,
respectively, of said bonds and coupons, and require
the complainants to make strict proof thereof.

And this defendant further answering says, that
before and at the time of the enactment of the said
16 Internal Improvement law of February 11th, 1852,
it had been ascertained by experience, and was at
said time well known and understood and perfectly
notorious, both in Tennessee and New York, that
Tennessee State bonds pure and simple, resting
upon the faith and credit of the State and upon that
alone, and not secured to the holder by any lien
upon a railroad or upon anything else, had a better

credit and brought and would bring a higher price 17
in the market, than the bonds of Tennessee railroad
companies, secured by mortgage liens upon their
railroads, and further secured by the endorsement
or guaranty of such bonds by the State of Tennes-
see, and that at that time the price in the market of
the Tennessee railroad companies' mortgage bonds,
endorsed by the State of Tennessee under legislative
acts antecedent to said Internal Improvement Act
of February 11th, 1852, of which endorsed bonds
there was then a considerable amount outstanding, 18
was materially less than the market price of Ten-
nessee State bonds pure and simple, resting alone
upon the faith and credit of the State, and in re-
spect of which there was no lien, or pretence of a
lien upon a railroad or upon anything else, and that
the said Internal Improvement Act of February
11th, 1852, was shaped as it was with the design
and purpose of gaining in the negotiation of the
bonds issued thereunder such advantage in price of
Tennessee State bonds, pure and simple, and for 19
which the State was primarily and alone liable, over
railroad mortgage bonds on which the State was or
should be liable as surety ; and that the actual sale
and negotiation of such bonds by the Nashville and
Northwestern Railroad Company and by the other
railway companies respectively, of the Tennessee
State bonds received by them respectively under said
Internal Improvement Act of February 11th, 1852,
and under the amendments thereof, from time to time,
were made under and in conformity with the idea, 20
design, and purpose hereinbefore last above stated,
and the purchases and takings thereof were in like
conformity, and with the like idea, and said bonds
upon the original sales and negotiations thereof by
the Nashville and Northwestern Railroad Company,
and by the other railroad companies receiving bonds
under said act respectively, were accordingly sold

21 and purchased upon the understanding that they
were Tennessee State bonds, pure and simple, for
which the holder was to look to the State, and to it
alone, and not bonds primarily payable by a railroad
company, and for which the State was to be
regarded as a surety, nor bonds in any way secured
to the holder by or connected with a railroad lien
or by any responsibility of a railroad company for
the payment thereof to the holder, and said bonds
accordingly commanded and brought in the market
22 the aforesaid advantage in price borne by Tennessee
State bonds, pure and simple, for which the State
was primarily and alone liable, over railroad mortgage
bonds, upon which the State was surety, and
that all subsequent purchases of and dealings in said
bonds were upon the same understanding and footing,
and that the idea of said bonds being anything
else than Tennessee State bonds, pure and simple,
or that there was any personal liability of the railroad
companies to which said bonds had been lent
23 by the State, for the payment of either the interest
or principal of such bonds to the holders, or any
lien upon the railroads respectively, in favor of or
in any way available to or for the benefit of the
holders of such bonds, was not entertained nor conceived
by the complainants or by any of the holders
of the bonds they now claim to own, nor by any
other holders of Tennessee State bonds issued under
such Internal Improvement Acts of February
11, 1852, until very shortly before the commencement
24 ment of this suit.

And this defendant, further answering, says, that as early as the year eighteen hundred and sixty-five, the State of Tennessee made a settlement with the Louisville & Nashville Railroad Company for and in respect of the entire amount of its indebtedness to the State for and in respect of the principal and interest of the Tennessee State bonds

which had been loaned to said company under the 25
Internal Improvement Act aforesaid, by receiving,
in payment and satisfaction of such indebtedness,
Tennessee State bonds at par, not being the identical
bonds which had been loaned to that company,
unless in so far as some small amount of those bonds
may accidentally have been included in the bonds
so received in settlement, and thereupon giving to
said railroad company a full release and discharge
for such indebtedness, and of the lien therefor,
under the Internal Improvement Act, and in such transaction 26
the State of Tennessee distinctly asserted or
assumed the existence of the State's full, complete
and unqualified ownership and control of such debt
and lien, with the right thus to deal with and
discharge the same, and the non-existence of any right
on the part of the holders of the State bonds, which
had been loaned to said railroad company, to
interfere with or question or complain of the same, the
State of Tennessee then being and for several years
having been in default in respect of the payment of 27
the interest on said bonds as well as upon its other
indebtedness. The acts and proceedings of the
State of Tennessee, under which this settlement was
made with and discharge given to the Louisville &
Nashville Railroad Company, were open, public and
notorious, and included joint resolutions of the
legislative bodies of the State and proceedings of a
Board of State officers, all distinctly proceeding
upon such basis of complete ownership, control and
right of settlement and discharge vested in the 28
State, and of non-existence of any right or interest
of the State bondholders, and the same covered a
period of many months before the settlement was
actually effected and the discharge given ; and
during all this period the assertion or assumption of
the existence of such right and power on behalf of
the State and the State's intention to exercise it,

29 were open, public and notorious, as well in New York and elsewhere where Tennessee State bonds were held as in Tennessee, and well known to and understood by the great mass of Tennessee State bondholders, including the complainants respectively, and the then holders of the bonds which they now claim to own, and neither the complainants, nor any of them, nor any holder of Tennessee State bonds ever raised or intimated any objection to, or denial or question of such right or power on
30 the part of the State, or gave notice of, or asserted, set up, or even intimated or suggested that the lien upon the railroads under the Internal Improvement Acts was one in which the State bondholders had any right, title or interest, but they each and all willfully and knowingly refrained from so doing, and stood by and saw the said transaction take place without objection, and fully and completely acquiesced in, admitted and assented to the claim, assertion and exercise by the State of such right
31 and power on its behalf, thus to control, deal with and discharge such debt and lien, and after such non-notification of claim and acquiescence, and practical recognition of and assent to such claim, right and exercise of power by the State, and non-existence of any interfering right or title on the part of the bondholders, and after the many years of subsequent delay and acquiescence, the holders of said Tennessee State bonds, including the complainants respectively, are now equitably estopped
32 from setting up the contrary construction of the Internal Improvement Act which the complainants now assert.

And this defendant hereby sets up and makes part of this answer with like effect as if here recited at large the Act of the Legislature of the State of Tennessee, entitled, "An Act to fund the past due bonds and coupons of the State, and to sustain the credit thereof," approved March 17, 1873.

And this defendant further says, that the complainants respectively, and the respective holders at the time being of the bonds which they now claim to hold, as well as the other holders respectively of the Tennessee State bonds, issued and loaned under the said Internal Improvement Act of February 11, 1852, and its amendments respectively, from time to time, to the Nashville and Northwestern Railroad Company, as likewise to the other railroad companies respectively, funded respectively the past due coupons of their said bonds, under and in pursuance of said Act of March 17, 1873, and received new State bonds therefor, as by said Act provided, and likewise registered, or procured to be registered, under and in pursuance of such Act of March 17, 1873, the said Internal Improvement bonds of the State of Tennessee, so by them held, and accepted and assented to said Act of March 17, 1873, and that such action on their part respectively, was with full notice and knowledge of the previous Acts of the Legislature of Tennessee, before referred to herein, and in the original answer of this defendant herein, and particularly the said Acts of March 20, 1860, February 25, 1869, January 2, 1870, July 5, 1870, December 22, 1870, and November 17, 1871, and of the several acts and proceedings had in pursuance thereof, including the proceedings in Chancery under which divers of the Tennessee railroads, upon which liens were held, under said Internal Improvement Act, including the Nashville & Northwestern Railroad, had been sold out for prices payable in State bonds not issued to the railroads whose roads were thus sold, and with full notice and knowledge that as to the said Nashville and Northwestern Railroad, as likewise, in respect of nearly all the other railroads upon which liens had been created under the said Internal Improvement Act and its amendments from 33 34 35 36

37 time to time, the State had made settlements
for such indebtedness, and discharged or assigned
the said lien therefor, or sold out the roads as
aforesaid in enforcement of such lien, upon the
basis and assumption of such lien being wholly
owned by and controllable by the State at its pleasure,
and that the State bondholders had no right or
interest therein, and that by such transactions the
State had, before such funding of coupons and registration
of the bonds, become, as between
38 itself and the railroad companies or their assigns,
bound to pay or discharge such State bonds
originally loaned to the railroad companies, as the
proper debt of the State, without any recourse over
against the railroad companies or their roads in respect
to the same, and that by such registration of
the bonds and funding of past due coupons, under
and in pursuance of said Act of March 17, 1873, the
said complainants respectively, and the said other
holders of Tennessee State bonds, which had been
39 issued under the Internal Improvement Act, with
its amendments from time to time, recognized,
treated, and dealt with the State as its sole debtor
for the principal and interest of such bonds, and
made new bargains and agreements with the State
in respect of the same varying the original terms,
and acquiesced in and assented to the practical
construction which had been put upon the Internal
Improvement Act in respect of the lien and its discharge
as aforesaid, and the settlements and dis-
40 charges which had been made by the State as aforesaid,
and that by reason of the premises aforesaid
the complainants respectively and the said other
holders of Tennessee State bonds are estopped and
precluded, if otherwise they would not be, from
impeaching or setting aside such settlements and
discharges and sales, and particularly the said sale,
made of the Nashville and Northwestern Railroad,

in enforcement of the State's lien as aforesaid; and 41
from setting up or asserting as against this defendant or its property any such claims as are set up or asserted by the complainants in this suit.

And in addition to the matters alleged hereinbefore and in the original answer of this defendant herein, relative to the practical construction placed upon the Internal Improvement Act of 1852 by the State, the railroad companies and the State bondholders, in respect of the character and ownership and control of the statutory lien upon the railroads, 42
created under or in virtue of said act, and relative to the acquiescence and assent of the complainants and the former holders of the bonds they claim to own, and the other holders of Tennessee State bonds issued under said Internal Improvement Act, and its amendments from time to time, and as to the several acts, doings, and proceedings of the State in respect of such lien, and the settlement and discharge of such debt and lien, this defendant further answering says that the complainants re- 43
spectively, and the holders at the time being of the bonds, which they now claim to own respectively, and the other holders respectively of Tennessee State bonds, issued under said Internal Improvement Act, and its amendments from time to time, have in various other ways acquiesced and concurred in the practical construction placed by the State as aforesaid upon the said Internal Improvement Act, in respect to the character, ownership and control of the statutory lien 44
created thereunder, and in the acts and proceedings of the State by which it has settled with the railroad companies for the indebtedness, and released and discharged or transferred the statutory lien therefor, or sold out their roads under the lien, and particularly that after many of such settlements and discharges and sales had taken place, and

with full notice and knowledge thereof, not only have they respectively fully acquiesced in and assented to the same, but some of the said State bondholders, and especially the complainants, or some of them, have, in communications with the State officers or authorities, urged the making of further settlements between the State and the railroad companies, under and in pursuance of the said Acts of 1869 and 1870, and the discharge thereby of so much of the railroad companies' indebtedness to the State, and of the statutory mortgage lien therefor, upon terms of payment in any State bonds at par, which further settlements have accordingly been made and discharges of the lien given accordingly, and the complainants and the holders at the time being of the said bonds, which they now claim to own, and the holders of a great amount or proportion of the other Tennessee State bonds issued under said Internal Improvement Act, with like full notice and knowledge as aforesaid, have, in other dealings with the State, and communications with the State officers and authorities, recognized and treated their said bonds as obligations of the State alone, and in no respect liabilities of the railroad companies nor liens upon their roads, and have accordingly entered into negotiations with the State for the settlement of such bonds and for the reduction and compromise and extension thereof, as being debts of the State alone and not of the railroad companies, and have in other ways, the particulars whereof this defendant has not as yet been able to discover, but which, when discovered, they crave leave to give in evidence, manifested acquiescence in and assent to the aforesaid practical construction placed by the State upon the said act, and the settlements and discharges of such debts and liens and sales of the roads made and given by the State as aforesaid.

East & Fogg,
R. McPhail Smith,
Solicitors and of Counsel for Defendants above named.

Circuit Court of the United States,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

Calvin Amory Stevens, who sues on behalf of himself and other holders of Tennessee State Bonds issued to the Nashville and Northwestern Railroad Company,

versus

The Nashville, Chattanooga and St. Louis Railway Company and others.

IN EQUITY.

Answer and Cross-Bill of Charles Burkhardt and others, aliens, holders of mortgage bonds of Nashville, Chattanooga and St. Louis Railway Company.

MATTHEWS, RAMSEY & MATTHEWS,
Solicitors.

STANLEY MATTHEWS,
Of Counsel.

The joint and several Answer of CHARLES BURKHARDT, of Basle, Switzerland, of SOPHIE MYLIUS VON WILLER, of Milan, Italy, of CHARLES DIGGELMAN, of Zurich, Switzerland, and of LOUISE ISELIN, of Basle, Switzerland, Aliens, on behalf of themselves and others whose names are exhibited herewith, and all others similarly situated and in like interest, being Holders of Bonds of the Nashville, Chattanooga and St. Louis Railway Company, to the Bill of Complaint of CALVIN AMORY STEVENS, Complainant, who sues in his own behalf and on behalf of all Holders of Internal Improvement Bonds of Tennessee, issued to the Nashville and Northwestern Railroad Company, against the Nashville, Chattanooga and St. Louis Railway Company and others, Defendants, in the United States Circuit Court for the Middle District of Tennessee.

And now come the following-named defendants, Charles Burckhardt, of Basle, Switzerland, Sophie Mylius Von Willer, of Milan, Italy, Charles Diggelman, of Zurich, Switzerland, and Louise Iselin, of Basle, Switzerland, who appear voluntarily by leave of the Court, in their own names and in their own behalf, and also on behalf of those whose names are set forth in the list of names herewith attached, marked "Exhibit No. 1," by Matthews, Ramsey & Matthews, their solicitors, and also on behalf of all others similarly situated, having a like interest, who may come in and be made parties hereto. And reserving and saving all benefit, advantage, or exceptions, or otherwise, that can or may be had, or taken to the many errors, uncertainties and imperfections in the said bill contained, for answer thereto, or to so much thereof as these defendants are advised it is material to make answer unto, jointly and severally answering, say:

1. That these respondents hereby adopt the answer to said bill heretofore filed by their codefendant, the Nashville, Chattanooga and St. Louis Railway Company, sued by the name of the "Nashville, Chattanooga and St. Louis Railroad Company," and the Nashville and Chattanooga Railroad Company, and all the matters and things therein set forth, as fully as if the same were here particularly repeated, and affirm and declare the same, and each allegation therein, to be true in substance and in fact, according to their information and belief, and rely upon the same as a complete and perfect answer and defense to said bill.

3. These respondents further answering say, that on or about the first day of July, in the year of our Lord one thousand eight hundred and seventy-three, the said, The Nashville, Chattanooga and St. Louis Railway Company, a corporation created, organized, and operated under and in pursuance of the laws of the States of Tennessee, Alabama, Georgia and Kentucky, their codefendant herein, entered into an indenture with Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, all citizens of the State of New York, wherein it was recited that, whereas, as the Nashville and Chattanooga Railroad Company purchased the Nashville and Northwestern Railroad; and, whereas, in pursuance of law, the name of the combined roads has been legally changed to the Nashville, Chattanooga and St. Louis Railway; and, whereas, by virtue of said purchase, and of the laws under which the said The Nashville, Chattanooga and St. Louis Railway Company, the party of the first part was created,

and of its organization, and in the exercise of its corporate rights, powers, and franchises, the said first party became and is vested with all and singular the corporate rights, powers, privileges, and franchises, and likewise vested with, and owner and occupier of, all property, real, personal, and mixed, and of all debts due, choses in action, rights of way, contracts, and all and every other interest whatsoever, which were held, owned, and lawfully possessed or exercised by, or which in any way or manner belonged or appertained respectively to the Nashville and Chattanooga Railroad Company, and the Nashville and Northwestern Railroad Company, corporations created and organized under, and by virtue of, the laws of the respective States of Tennessee, Alabama, Georgia, and Kentucky, as fully and as effectually as the same rights, powers, debts, contracts, rights of way, and other interests were held, owned, and exercised by the said last named corporations, or either of them, at the time of the comsummation of the organization and executing said indenture; and that, whereas, said Nashville, Chattanooga and St. Louis Railway Company has paid in part, and will pay in full, to the State of Tennessee the purchase-money for the Nashville and Northwestern Railroad, and has also paid in part, and will pay in full, under the laws of the State of Tennessee, the indebtedness of the Nashville and Chattanooga Railroad Company for all bonds loaned it by said State, and will likewise deposit in the hands of the comptroller of the State of Tennessee, as prescribed by the Act of 1871, chapter 144, section 2, of the laws of the State of Tennessee, fourteen hundred and twenty-five thousand dollars of this issue of first mortgage bonds, therein secured, being equal to the amount of bonds indorsed by the State of Tennessee for said Nashville and Chattanooga Railroad Company, now outstanding, and which fourteen hundred and twenty-five thousand dollars of six per cent. bonds and one million dollars, bearing four per cent. annual interest, and held by the United States government, against which latter sum an equal amount of the issue of bonds hereby secured are to be reserved and set apart to be hereinafter issued by the party of the first part, to be used only in paying off and discharging the said one million dollars, so long as the aforesaid liability of one million dolllars, or any part thereof, remains unpaid; these two amounts of fourteen hundred and twenty-five thousand dollars and one million dollars are all the bonded obligations of any kind, other than the issue therein secured, of said corporation; and that to enable the said party of the first part to raise money with which to liquidate, pay, satisfy, and fully discharge the indebtedness incurred in the purchase, reconstruction, and equipment of the Nashville and Northwestern Railroad, and also for the purpose of perfecting its line of railway, and enlarging the capacity and extending the operating facilities for the business thereof, and also for the purpose of paying at maturity the present outstanding bonds and indebtedness, as above stated: the said party of the first part, acting in its regular annual convention of its stockholders, and by and through its board of directors, has resolved to issue and dispose of its bonds to an amount not to exceed twenty thousand dollars per mile on the main line and branches of its railroad, and to secure the payment of the same by a first mortgage or deed of trust on all property and franchises of said company; and that the party of the first part has prepared and executed, or will hereafter prepare and execute, its bonds of one thousand dollars each, numbered from one to six thousand eight hundred, inclusive, to the amount of six millions eight hundred thousand dollars, dated July 1, 1873, one million dollars of which to be set apart as aforesaid, to be hereafter issued, shall be of such rate of interest not exceeding seven per cent. per annum in currency, or six per cent. per annum in gold, and in such form as may be hereafter prescribed by the said party of the first part; but falling due at like times with the bonds of five million eight hundred thousand dollars, hereinafter mentioned, and the remaining five million eight hundred thousand dollars, payable in lawful money of the United States, in New York, forty years after date, bearing interest at the rate of seven per cent. per annum, with coupons or interest warrants attached, payable semi-annually in lawful money of the United States, in New York, or payable in gold coin of the United States, and bearing interest at the rate of six per cent. per annum, payable in like gold coin of the United States, at New York, or with the coupons to be thereto annexed, and the certificates to be indorsed thereon in the forms therein set forth, which coupons are to be issued with the engraved signature of the secretary of the said company; and when thus issued by said company, are to be as binding upon it as if such signature were written by the secretary.

Therefore, the said indenture witnesseth, that for the purpose of securing and making more sure and certain the payments of the sums of money mentioned and provided for in the above-mentioned bonds, to the aggregate amount of six million eight hundred thousand dollars, bearing even date therewith' and each and every one of them with the interest thereon, according to the true intent and meaning thereof, and in consideration of the recited premises, and the sum of one dollar to the said first party in hand paid by the said Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, the receipt whereof was thereby acknowledged by the said party of the first part, the said Nashville, Chattanooga and St. Louis Railway Company, the party of the first part aforesaid, granted, bargained, sold, assigned, transferred, and conveyed by the said presents to said Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, the parties of the second part, their heirs and assigns forever, and to their successor or successors, in the trust, and assigns, all and singular, the estate and property, real, personal and mixed, and all fixtures, rights, privileges, franchises, easements under leases, terms, and parts of terms, agreements, covenants, and contracts, of all and every kind, held and owned or occupied by said party of the first part, or whereunto it is entitled; including especially all and singular the railroads and railways of said company, with the appurtenances thereof, from and including the terminus and depot at Chattanooga in the county of Hamilton, in the State of Tennessee, and thence, *via* Stevenson, in Jackson county, in the State of Alabama, to the city of Nashville, in Davidson county, in the State of Tennessee, thence, *via* McKenzie, Carroll county, in the State of Tennessee, to and including the terminus in the town of Hickman, on the Mississippi river, in Fulton county, State of Kentucky; being a distance of about three hundred and twenty-one miles of main line, and also and including the line from the town of Wartrace, in Bedford county, State of Tennessee, to the town of shelbyville, in said Bedford county, State of Tennessee, the distance from said Wartrace to Shelbyville being eight miles; also including the line from from the town of Bridgeport, in the town of Jackson, in the State of Alabama, to the town of Jasper, in the county of Marion, in the State of Tennessee, said distance from Bridgeport to Jasper being eleven miles, including the terminus and depot in each and all of said towns, making a total length of main line and branches of three hundred and forty miles.

Together with all and singular the appurtenances thereto belonging, and more fully described in said indenture. To have and to hold the said railroad and appurtenances and equipments, estate, property, rights, privileges, franchises, and interests therein conveyed or transferred unto the said parties of the second part, their heirs, successors and assigns, for the equal *pro rata* security and benefit of all such persons or corporations as should become or be from time to time the lawful owners or holders of the above-described bonds, to the aggregate amount of six million eight hundred thousand dollars, or any of them, without preference or priority of any such bonds over any of the others, by reason of priority in the time of issue thereof, or otherwise, and upon the trusts and for the uses and purposes therein declared.

These respondents further say that the said indenture, deed of, trust, or mortgage, was duly registered, and became, and is, in accordance with the laws of Tennessee, as well as the laws of the States of Alabama, Georgia, and Kentucky, a full and effectual conveyance for the uses and purposes therein mentioned, and that a copy thereof is hereto attached, marked "Exhibit No. 2," as a part hereof, to which reference is hereby made.

3. These respondents, further answering, say, that the whole amount of bonds described in the said indenture and deed of trust or mortgage, and intended to be issued, were and have been from time to time issued, sold and disposed of by the said The Nashville, Chattanooga and St. Louis Railway Company, for the uses and purposes therein mentioned, and were negotiated and sold in the city of New York and in Europe, to *bona fide* purchasers

for full value, and the proceeds thereof were used for the purpose of purchasing bonds of the State of Tennessee, to be used in payment to said State for the purchase-money for the Nashville and Northwestern Railroad, which was bought by the Nashville, Chattanooga and St. Louis Railway Company, under judicial proceedings instituted by said State for that purpose, and in pursuance of the laws of the State; and also for the purpose of paying under the laws of the State of Tennessee the indebtedness of the Nashville and Chattanooga Railroad Company for all the bonds loaned to it by said State, and the bonds and coupons of the State of Tennessee so purchased by said Nashville, Chattanooga and St. Louis Railway Company, were bought in open and public market in the city of New York, at the prevailing market rates, and were afterward delivered to and accepted by the State of Tennessee, through its comptroller, in accordance with law, in payment and satisfaction of said debt due to the State from the said Nashville, Chattanooga and St. Louis Railway Company, on account of the purchase aforesaid of the said Nashville and Northwestern Railroad, and on account of internal improvement bonds of said State originally loaned to the Nashville and Chattanooga Railroad Company; fourteen hundred and twenty-five thousand dollars of said bonds, secured by said indenture or mortgage and deed of trust, however, have been deposited in the hands of the comptroller of the State of Tennessee, in accordance with law, as security against an equal amount of the bonds of said Nashville and Chattanooga Railroad Company then outstanding and indorsed by the State, and for which the said State had reserved a lien on said railroad property in its own favor, and one million dollars of said bonds, in accordance with the terms of the said indenture being reserved unissued, for the purpose of being used only in paying off and discharging an indebtedness of that amount to the government of the United States, as therein recited; and,

These respondents say that the said Charles Burckhardt purchased originally and still holds of said bonds the amount of thirteen thousand dollars, and the respondent, Sophie Mylius von Willer, purchased and still holds of said bonds the amount of fifteen thousand dollars, and the said Charles Diggelman purchased and still holds of said bonds the sum of five thousand dollars, and the said Louise Iselin purchased and still holds of said bonds the sum of fifteen thousand dollars; and that the several respondents whose names are in the list marked "Exhibit No. 1," each purchased and still holds of said bonds the several amounts set opposite their respective names in said list; and

These respondents say that they and other purchasers and holders of said bonds bought the same in good faith and for full value, and in the assurance and belief that the said bonds were lawfully issued for the purpose authorized, and relying upon the representation contained in the certificate of the Comptroller of the State of Tennessee, annexed to each of said bonds, in the words and figures following, to wit: "This is to certify that the lien of the State of Tennessee on the Nashville and Northwestern Railroad, and on the Nashville and Chattanooga Railroad, now merged in the Nashville, Chattanooga and St. Louis Railway, has been paid and satisfied as follows, to wit: By the payment in full to the State of Tennessee for the purchase money of the Nashville and Northwestern Railroad, and by payment in full for the loan of the bonds of the State of Tennessee to the Nashville and Chattanooga Railroad, and by the deposit in my hands, in the manner required in the Act of 1871, chapter 144, section 2, of dollar for dollar of the issue of consolidated bonds, to be held against the outstanding bonds of the Nashville and Chattanooga Railroad Company, endorsed by the State,"—which said certificate was duly signed by the Comptroller of the State of Tennessee, as required by law; and

These respondents, further answering, say and insist, that the said indenture, or deed of trust and mortgage securing said bonds so as aforesaid held by these respondents, has become, and is the first and best lien upon the said railroad and other property described therein, anything in the bill of complaint of said complainant to the contrary notwithstanding.

4. These respondents admit that the General Assembly of the State of Tennessee, on the 11th of February, 1852, passed an Act entitled "an Act to establish a system of Internal Improvements in this State," and various other statutes amendatory and supplementary thereto and in execution thereof, but does not admit that the copies thereof set out in the bill are correct, or that those referred to therein are all that are material to be considered, and denies that the construction thereof claimed by the complainants in said bill is the true and rightful interpretation thereof, and particularly that the same created any debt or obligation from any railroad company, to which they were loaned to the holders of any bonds of the State of Tennessee, loaned to said company by the State, and sold and put in circulation by said company, or that the lien reserved and declared in said laws was reserved and declared in favor of the holders of the bonds of the State, or in anywise inured to them, either by the terms of the said statutes or in virtue of any agreement or contract with the holders of said

State bonds, expressed or implied, made by and between them and said railroad company or the State of Tennessee, or otherwise; and on the contrary thereof, these respondents insist that the said statutes, according to the true meaning thereof, are laws of the State of Tennessee, defining, declaring, and regulating the duties and obligations toward said State alone, of the several railroad companies, to each of which it loaned its bonds, for the uses and purposes therein named, and reserving and securing to the said State, and to it alone, its rights and interests, as against said railroad companies, in consequence of the loan to each thereof of any of its own bonds; and the only contract to which the holders of the bonds of the State of Tennessee are parties, or in which they have any legal, or equitable or beneficial interest, is directly with the State, and is contained only in the bonds themselves, whereby they agreed for the payment of the interest and principal, as therein stipulated, to look alone to the faith and credit of the State, thereby pledged for the same.

And these respondents further say, as a matter of fact, that all the bonds of the State of Tennessee loaned to the said railroad companies under said acts, were sold in the market as straight Tennessee State bonds; that is to say, as other bonds of the State of Tennesssee, issued upon the mere credit of the State and without other security, and on which the State was liable as principal, and as distinguished from bonds of railroad companies, indorsed or guaranteed by the State, and on which both the railroad company and the State were bound, the former as principal, the latter as surety; and this respondent says that, in consequence of this difference, and in virtue of said bonds being what were known in the market by the public as straight Tennessee bonds, the said bonds sold before the war, commanded a premium in the market, and were sold at or above par, while bonds of other descriptions, on which the railroad companies were bound as principals and the State of Tennessee as surety, and secured by a mortgage lien upon the railroad property, directly to the holders of the same, could not be sold except at a very considerable discount; and this respondent insists that it was to meet this condition of the market, which was well known, and to avoid and prevent the loss occasioned by this distrust of bonds, on which railroad companies were bound as principals, and the State merely as surety, that the legislation introduced by the acts of January 15 and February 11, 1852, was shaped so that the bonds of the State to be issued under it should rest alone, without other security, upon the public confidence in the ability and willingness of the people and government of the State of Tennessee to meet and pay at maturity all their obligations and debts, as, at that time, they always had done, and as at that time it was believed they always would continue to do; and all the provisions in said legislation looking to security for the payments to be made by the railroad companies were arrangements to which the State and the railroad companies alone were parties, and for the sole indemnity of the State against loss on account of its liability for this interest and principal of its bonds, issued and loaned to the said several companies.

And these respondents say that it was not in the contemplation of the parties, at the time of the passage of said internal improvement acts of 1851, 1852, nor at the several times when the bonds of the State were issued, in pursuance thereof, to the several railroad companies mentioned therein, nor when any of said bonds were sold by said railroad compvnies, that the State of Tennessee would ever fail promptly and punctually to pay the current interest on said bonds; and that, consequently, it is inadmissible now to construe said acts as if they contained provisions looking to such contingency, and providing against it, more especially as if such construction had been put on said laws at the time of said negotiation, it would have been evidence of such distrust in the good faith or ability of the State to meet its obligations as would materially have affected the market value of said bonds, if not prevented their sale; and, on the contrary thereof, this respondent says that so little room was there for such a construction of these acts, that express provision was therein made, in the 5th section of the act of February 11, 1852, whereby it was made the duty of the comptroller, and he was thereby authorized, "upon his warrant, to draw from the treasury any sum of money necessary to meet the interest on such bonds, as may not be provided for by the company, as provided for in this act; and the comptroller shall report thereof to the General Assembly from time to time."

And these respondents further say that whatever were or may be supposed to have been the rights of the holders of the State bonds, issued under said act of February 11, 1852, after sale thereof by the railroad companies, to which they had been loaned and issued, they were taken subject to the provisions of the 12th section of said act, whereby it was enacted "that the State of Tennessee expressly reserves the right to enact, by the legislature hereafter, all such laws as may be deemed necessary to protect the interest of the State, and to insure the State against any loss, in consequence of the issuance of bonds under the provtsions of this act, but in such manner as not to impair the vested rights of the stockholders of the companies."

And that all the subsequent acts, amendatory of said act of February 11, 1852, and suplementary thereto, particularly the said acts of 1869, 1870, for the retirement of the State debt, and for the sale of delinquent railroads, and all acts and transactions under them, whereby settlements were effected between the State and said several railroad companies, and the indebtedness of the latter, arising in consequence of the loan to them of the bonds of the State was liquidated and satisfied, and the lien to secure the same discharged, were strictly and fairly in execution of the intentions and purposes of the original act, and of the power reserved to the State in the 12th section thereof.

And these respondents further say that said act of February 11, 1852, not only recognizes the lien thereby reserved and creatad, as belonging to the State in law, but also in equity, for its own sole and exclusive benefit, to be dealt with, enforced, or discharged, according to its own discretion, and with a view only to its own interests, as its own property, security, and indemnity; and also that the plan provided in said act for the gradual but ultimate payment and extinction of the obligations of the railroad companies under the same, in making provisions for a sinking fund, according to the terms of the 7th section thereof, explicity admitted the principle of a payment by said railroad companies, on account thereof, of any bonds of the State, whether the identical ones issued to the company or not, and guaranteed to each of said railroad companies, as a right, the opportunity to pay its whole indebtedness, arising under said act, in any bonds of the State of which it might become possessed, and was merely a provision for effectuating the just and lawful exchange of one debt for another, upon the basis of mutual rights of set-off.

5. These respondents further say that immediately after the proclamation of peace, in the spring of 1865, the General Assembly of the State of Ten-

nessee, then in session, addressed itself to the subject of the condition of the railroads of the State and of the public debt. The Louisville and Nashville Railroad Company was, at that time, the strongest corporation, financially, owning or operating any railroad in Tennessee, for the reasons, that the principal part of its lines were situated in the State of Kentucky, and had suffered less than Tennessee roads from injury inflicted by reason of military operations. Accordingly, the firt step taken was to seek a settlement with that company for the liquidation and payment of its indebtedness to the State, on account of bonds issued to it to aid in the construction of its main stem from the State line to Nashville.

These respondents say that the discharge and satisfaction of the debt, due from the Louisville and Nashville Railroad Company to the State of Tennessee, and a lien reserved under said statutes for the security of the same, was effected in the manner following, to-wit: On May 5, 1865, the General Assembly of the State, by joint resolution, appointed the comptroller, secretary of state, attorney-general, and commissioner of public works a board to make a settlement with the Louisville and Nashville Railroad Company, and if a satisfactory settlement could not be obtained, the governor was authorized to have instituted such legal proceedings as might be necessary to protect the interests of the State. On the 18th of November, 1865, said commissioners reported to the legislature that they had effected a settlement; that the bonds loaned said company by the State amounted to $560,500, and the overdue interest thereon to $147,131.25; that the company had proposed to pay the entire principal in straight six per cent. coupon bonds of the State and the interest in coupon bonds of the State then due. The commissioners say: "Believing it to be manifestly for the interest of the State to call in this large installment of its indebtedness) and believing, moreover, that the company had a right under the law regulating the sinking fund to pay off its entire indebtedness of the bonds of the State, your commissioners accepted the proposal, and executed to the company a receipt dated November 17, 1865, for $707,631,25 in bonds and coupons of the State, being the total indebtedness of said company to the State of Tennessee on account of the bonds of the State received in aid of the construction of said road and the bridge across the Cumberland river." Copies of said resolution and report are herewith filed as Exhibits Nos. 3 and 4 respectively. And these respondents say that the said railroad company actually paid and delivered said bonds and coupons as in said receipt is recited.

6. These respondents further say that the facts of this settlement were public and notorious, and were well known at the time to the public at large, to the holders of Tennessee State bonds, and, as these respondents aver and charge, to the complainant and those with whom they are associated and acting in the prosecution of this and similar suits; and that it was equally well known that it was made under a claim of right and in pursuance of an interpretation of the statutes of 1851, 1852, and of the subsequent legislation, which treated the lien upon the railroads reserved thereby as belonging to the State, not in trust for the holders of its bonds, but in its own right, to be dealt with in its own discretion and with sole regard to its own interests; and that consequently, although at the time this settlement was made in 1865, the State was in default for non-payment of the interest on its bonds from July, 1861, no protest or complaint was ever made by any holder of State bonds against the mode of dealing on its part with the said roads, nor against this settlement with the

Louisville and Nashville Railroad Company, until the filing of this bill.

7. These respondents further say that the bonds and coupons paid by the Louisville and Nashville Railroad Company to the State of Tennessee in the said settlement, were not the identical bonds and coupons originally advanced and loaned to said company and by it negotiated and sold, but that the same, in part at least, were other bonds and coupons of the State of Tennessee, of like character thereto; that by the terms of the seventh section of the act of February 11, 1852, the said company was required, at the end of five years after completion of its road, to set apart one per centum per annum upon the amount of bonds issued to it, and use the same in the purchase of any bonds of the State of Tennessee, paying said bonds so purchased into the treasury of the State after assigning them to the governor, taking his receipt therefor, and which bonds, it was thereby declared, so paid in, as between the State and said company should be a credit on the bonds issued to the company; and said bonds, so paid in, and the interest accruing thereon from time to time, should be held and used by the State as a sinking fund for the payment of the bonds issued to the company, but that should said company repurchase any of the bonds issued to it under the provisions of said act, they should be a credit as aforesaid and canceled; and thereby, as this respondent insists, there accrued to the company, in addition to the obligation to pay said one per cent. per annum, the right at its election, with the concurrence and consent of the State, to pay any additional amount of bonds of the State, of any description, into said sinking fund with like effect.

And these respondents further say, that by an act of the General Assembly of the State of Tennessee, passed March 20, 1860, entitled "an act to provide for the equalization and investment of the sinking fund in the bonds issued to or indorsed for railroads in this State," it was provided that the money or bonds paid in to the sinking fund by the 1st day of January, 1860, with the interest thereon, should be passed directly to the credit of the parties having so paid the same, and be a release to said party for that amount of the debt due by them to the State of Tennessee, all bonds so paid in being canceled; and that after said date of January 1, 1860, the companies who had received State bonds, should be required to pay two and one-half per centum per annum on the amount of such bonds, as a sinking fund, which amount might, at the election of the companies, be paid in cash, or in the like character of bonds that might have been issued to them respectively; if paid in cash, the same to be invested immediately in bonds of the State, to be canceled, and to be of the same character as those issued to the said company making the payment; and it was further provided therein, that the sinking fund, when paid, in all cases, shall be passed directly to the credit of the said company or corporation, and be a release to said company or corporation from that amount due by them to the State, and that, thereafter, each railroad company should provide the interest semi-annually as therein provided by law, on the amount of bonds unpaid at the time said interest falls due, and not on the original amount issued to said company by the State, as theretofore provided: and thereby there was recognized in said companies the right to pay, in manner aforesaid, in any bonds of the State, the entire amount due from it to the State on account of bonds originally issued to it by the State; and it was in the exercise of this right, that the Louisville and Nashville Railroad Company made its payment as aforesaid, which was accepted by the State in satisfaction of the debt due from it to the State, on account of the bonds issued to it, and in discharge of the lien reserved by the State as its security therefor.

8. These respondents further say, that, at the time said settlement was made, the circumstances of the situation were such as to make it most advantageous to the State of Tennessee, and beneficial to its credit and its creditors. The war had but recently prior thereto definitely closed.

During the period of actual military operations, the railroads had been the prize of contending armies, as instruments of offense and defense. In the course of the struggle, they had been stripped of their equipment, and parts of them destroyed and repaired, as circumstances permitted, to fit them for military use, but so that when they were finally restored, on or about August, 1865, to their owners, they were destitute of rolling stock, cars, machinery, shops and tools, and almost every thing needed for an equipment, nearly everything of that description then in actual use upon the roads being the property of the United States, furnished and employed for its military uses. This they were permitted to purchase and did so in pursuance of executive orders issued by the President of the United States in September and October of that year, but being unable to pay cash, gave their obligations for the purchase money payable in installments and bearing interest. The roads themselves, their road beds, track, trestle-work, bridges, and permanent work of every description, were, to a greater or less extent, out of repair, in need of restoration, in some instances in a state of actual dilapidation. Business of every kind had been suspended by the war, except military transportation, and now, that employment ceased with the cessation of hostilities, but the fruits of peace, in the revival of industry and trade, could only come with the lapse of time, and the gradual accommodation of the community to the new order of things. The general result was that the railroads required large sums of money to put them in a condition to earn an income, and, after that, would have to wait the slow operation of general causes upon the social condition of the people, before any revival of trade would renew their sources of revenue. In the meantime, a large arrearage of debt, for unpaid interest, had accumulated by reason of the default, during the whole period from July, 1861, both of the State and the railroad companies, in consebuence of which the State securities had become discredited in the markets of the world, and their holders, as seen by the quotations in the stock markets at New York, were willing to dispose of them at a large discount. To buy them from those willing to sell, at their own offers, was no injustice to the bondholders; to pay them into the sinking fund, as a credit on the railroad debt, would be a relief to the companies, and would diminish the burden of the State, and reduce the amount of its obligations, so as probably to bring the State debt within the limits which would make it tolerable, and so diminish the motive and temptation to repudiate it, while the demand thus created for depreciated securities would naturally, as in fact it did, raise the prices in the market of those held by others who did not choose to sell; so that the transaction was well calculated, without injury or loss to any one, to prove beneficial to all the important public and private interests affected.

9. These respondents further say, that about the time said settlement was made with the Louisville and Nashville Railroad Company, on November 8, 1865, the General Assembly of the State of Ten-

nessee, by joint resolution of that date, appointed a joint committee to examine into the condition of the sinking fund, and ascertain what railroads had paid, and what amount, and if they had due credit, and also that they be authorized to cancel all bonds of the State that had been paid in by railroads; and these respondents say, that while they are ignorant of the exact amount of State bonds that, at that time, had been paid in on account of the sinking fund by the railroads, and for which they were entitled to credit on account of their indebtedness to the State for its bonds loaned to them under the general internal improvement acts, yet, that it amounted to a considerable sum, and that said bonds had been paid in, as by law the railroad companies had the right to do, whether they were the identical bonds loaned to the company paying them into the State treasury, or other State bonds, issued to other railroads, or for the general purposes of the State; and these respondents say, that no other mode of reducing the indebtedness of the State to its bondholders, or of the railroad companies to the State, was in fact practicable, for the reason that no difference was made in the stock market in Tennessee State bonds, as to price or description, on account of having been issued to one railroad company and not another, or between those issued to railroad companies under the internal improvement acts, and those issued by the State for other purposes; nor could any purchaser or seller of bonds have knowledge, without carefully tracing their numbers in the books of the secretary of State, on what account and to whom they were originally issued, so that no railroad company could practically go into the market and purchase exclusively State bonds which had been originally loaned to it, under the internal improvement acts, and it was a fact and practice well known to the complainants, as to all the holders of State bonds, that they were from time to time bought in the market for the purpose, and actually paid into the sinking fund, without discrimination, as stated hereinbefore, accepted by the State as a payment on account of the debt due from the railroad company so paying them into the treasury, and credited to it in account, and treated, as between such company and the State, as paid and canceled bonds.

10. These respondents further say that, at or about the date of said settlement between the Louisville and Nashville Railroad Company and the State of Tennessee, to wit, on the 23d day of November, 1865, the General Assembly of said State passed an act entitled an act to amend an act entitled, "an act to establish a system of internal improvement in the State, passed the 11th of February, 1852, whereby the governor of the State was authorized and instructed to issue the six per cent. coupon bonds of the State, similar in character in every respect to the bonds issued under said act of 1852, and maturing at the same time, to an amount sufficient to pay off all the bonds and interest past due, as well as that to fall due January 1, 1866, or on any bonds that might fall due during the year 1867, issued or indorsed by the State prior to the 6th day of May, 1861, said bonds to be dated on the 1st day of January, 1866, and payable on the 1st day of January, 1892, to be sold and negotiated at not less than par or exchanged for the interest coupon bonds thereby provided to be paid, estimating each at their par value. And it was further provided in said act, that the State should have the liens upon each of the roads, their franchises, and property, for the prompt and faithful payment of the principal and interest of the bonds thereby authorized to be issued, to pay the interest on the

bonds said company should have paid interest on as it had under the said act of February 11, 1852, for the bonds issued under that law; and the said several railroad companies receiving aid under this act should pay the interest on said bonds, as it matured, in the same manner and under the same rules, regulations and restrictions as they were then required to pay on the bonds issued or indorsed for them under the said act of February 11, 1852, commencing the payment of said interest on the 15th day of June, 1866, the amount of interest due on January 1, 1866, by any railroad company to the State on bonds issued to or indorsed for said company, being charged up to said company on the same terms and conditions of the original loan under the said act of February 11, 1852.

It was further provided by the said act of November 23, 1865, that the obligations on the part of the railroad companies to pay into the sinking fund two and one-half per cent. per annum on the amount of their indebtedness to the State, be suspended until January 1, 1867, and said companies relieved from the payment of sinking fund then past due, and that during the year 1867 each of said companies should be required to pay four per cent. on the amount of its indebtedness to the State, to be paid in any bonds of the State of a like character to those issued or indorsed for said company, with the coupons on the same that have not matured, semi-annually on the first of April and October, and a like amount every year thereafter until the whole of their indebtedness is discharged.

And these respondents say that every holder of bonds of the State of Tennessee, originally issued under the internal improvement laws, including the complainant, if at that time he was holder of any such, accepted the provisions of this act of

November 23, 1865, surrendering to the State the overdue and unpaid coupons of said bonds, which had matured from July 1, 1861, to January 1, 1866, and receiving in exchange therefor the said State bonds, authorized thereby, and subject to all the terms and conditions of said act, affecting either said new bonds or the original bonds held by them, and thereby admitted and consented to the expressed right reserved to the railroad companies to pay their indebtedness to the State, on account of said bonds originally loaned to them, in any bonds of the State of like character.

11. These respondents further say, that after the proceedings and legislation of the State of Tennessee, hereinbefore set out, including said settlement with the Louisville and Nashville Railroad Company of November 17, 1865, and the passage of said act of November 23, 1865, the market price of the bonds of the State of Tennessee, in the city of New York, rose from about fifty cents on the dollar in the month of March in that year to ninety-two cents on the dollar in the month of December in the same year.

12. These respondents further say, that at its same session, on the 18th day of January, 1866, the General Assembly of the State of Tennessee passed another act to amend the said act of February 11, 1852, wherein it is recited that the Memphis and Ohio Railroad, the Memphis, Clarksville and Louisville Railroad, the Edgefield and Kentucky Railroad, the Manchester and McMinnville Railroad, the Nashville and Northwestern Railroad, the Mississippi and Tennessee Railroad, the East Tennessee and Virginia Railroad, the Knoxville and Kentucky Railroad, the Winchester and Alabama Railroad, and the East Tennessee and Georgia Railroad were all out of repair, the bridges and trestles on said roads had been destroyed, and the companies were

unable to put them in running order, and the State had a large interest in said roads, and it was to the interest of the State and the people of the State that the said roads should remain under their control, and that they should be put in running order. It was therefore thereby enacted that the governor of the State be authorized and instructed to issue the bonds of the State, bearing six per cent. interest, with coupons attached, similar in every respect to the bonds issued under the act intended to be amended, viz., the act of February 11, 1852, and maturing as thereinafter provided, to the said named railroad companies, or receivers of such roads, appointed by the governor under the laws of the State, in the amounts therein named, amounting in the aggregate to the sum of $3,283,000, besides $125,000 to the Nashville and Chattanooga Railroad Company, for the completion of the branch road from Bridgeport, Alabama, to Jasper, Tennessee, and $75,000 to the Southern Central Railroad, for the purpose of assisting in paying for their bridge.

And it was further provided in said act, that each of the said railroad companies, to which relief was granted by said act, should pay to the treasurer of State, as a sinking fund, four per cent of the amount of its indebtedness under said act, as also the interest on said bonds; the sinking fund to commence on the first of January, 1867, as a fund for the payment of said bonds; and the State thereby reserved a lien on all the profits of said roads, for the money thereby advanced for the repairing of the same, which the State should have the right to enforce, if the said companies should fail to pay the four per cent, and interest, as provided by the said act, and which should be enforced as provided by law, in the internal improvement act of the State, and said lien, thus reserved, was thereby also declared to be cumulative of, and in addition to, the lien declared in the act of 1852, which said act it was intended to amend, which lien—that is, under said last mentioned act —was thereby declared to extend to, and cover, the money or bonds to be advanced to said roads under said act.

13. These respondents further say, that in pursuance of the same policy, to extend and enlarge the aid of the State to its railroads, in order to restore and repair them, the General Assembly of the State passed additional acts, to which reference is here made, viz:

An act to incorporate the Tennessee and Pacific Railroad Company, and for other purposes, passed May 24, 1866.

An act to amend an act, passed January 18, 1866, entitled, "An act to establish a system of internal improvements," passed February 11, 1852.

Under which two acts, bonds of the State were directed to be loaned to the amount of three millions and ten thousand dollars ($3,010,000), to the railroad companies therein named, upon the same conditions prescribed in the internal improvement act of 1852 and its amendments.

And by an act, passed February 18, 1867, the act of November 23, 1865, above referred to, was amended so as to postpone the commencement of the payment by the railroad companies, of the four per cent sinking fund, from the year 1867 until the year 1870.

14. These respondents further say, that many of the railroad companies were unable to provide the means to meet the interest falling due on the 1st of July, 1867, which by law they were bound to provide, and failed to do so, to the extent of nearly $800,000, but that the State nevertheless paid the whole amount of interest falling due on that date on its bonds to the holders thereof; and thereafter,

on the 7th day of December, 1867, the General Assembly passed an act entitled "an act to amend the internal improvement laws of the State, passed February 11, 1852," and thereby authorized the loan in a like manner and under the same conditions imposed by the internal improvement laws of the State, to the several railroad companies therein named, of State bonds, to the aggregate amount of three million seven hundred thousand dollars ($3,700,000), besides an additional sum of $5,000 per mile to the Tennessee and Pacific Railroad Company; and by section 15 of said act it was "Provided, that if the several railroad companies or either of them to whom the bonds of the State has been loaned by this act or former acts, shall fail for two consecutive years, to pay the interest that may accrue upon the bonds loaned to them severally, then, and in that case, the governor, secretary of state, and comptroller may, at their discretion, sell said railroad track, railing, rolling stock, etc., upon such terms and conditions as they may deem best to secure the interest of the State, and shall retain of the proceeds of said sale, the amounts loaned to said companies and the interest due on the same, with expenses of said sale," and also, on the 26th of January, 1869, passed an act to amend the internal improvement act of 1852, by making it the duty of each railroad company, to whom had been issued the bonds of the State, at least fifteen days before the interest becomes due, from time to time, to pay the amount of such interest, including exchange and necessary commissions, to the Comptroller of the State, instead of the Bank of Tennessee, as originally provided in the acts of 1851–1852.

15. These respondents further say, that on February 24, 1870, the General Assembly of Tennessee passed an act to fund the floating debt of the State,

and thereby made provision for funding the interest on the public debt of the State then due, and that which might become due on or before the first day of January, 1874, in new bonds of the State, with coupons attached, redeemable by the State in not less than five nor more than twenty years, at the pleasure of the State, bearing interest at the rate of six per cent. payable semi-annually ; and it was thereby also enacted that the amount of interest then due, or that might become due by the 1st day of January, 1872, to the State on bonds issued to railroad companies, might be paid by said railroad companies in the bonds of the State or past due coupons, as the said companies might elect, and the Comptroller of the State was authorized and instructed to receive said bonds or coupons in payment of the said interest due to the State by said railroad companies, provided, that no railroad company in the State should be entitled to the provisions of that section, unless they had paid or should pay, in cash, fifty per cent. of the amount due and owing to the State by such railroad companies on the first day of July, 1869.

And these respondents say that on March 17, 1873, the General Assembly of Tennessee passed an act entitled "an act to fund the past due bonds and coupons of the State, and to sustain the credit thereof," and thereby enacted that all the outstanding legally issued bonds of the State of Tennessee, due, or to become due before the first day of January, 1874, as well as all past due coupons, and coupons maturing on or before the first day of January, 1874, might be funded in six per cent. coupon bonds of the State of Tennessee, to be styled "the new series of funding bonds," redeemable, at the option of the State, after July 1, 1884, and due and payable on the first of July, 1914, and bearing six per cent. interest, evidenced by coupons attached, payable semi-annually, on the first days of January and July in each and every year, from and including the first day of July, 1874, to the maturity of the bonds; and it was thereby further enacted, that the faith, honor, and credit of the State of Tennessee was thereby pledged for the payment of said bonds at maturity, and providing a sinking fund for that purpose, and for the prompt payment of interest on said bonds, as well as the interest on the registered bonds thereinafter provided for, commencing with the interest to fall due the first day of July, 1874; and it was thereby made the duty of the Treasurer of the State to set apart for that exclusive purpose so much of the revenues as might be necessary to pay the interest on said bonds, commencing with the interest that falls due the first day of July, 1874; and, by the ninth section of said act, it was further enacted, that no coupons of bonds then due should be paid, other than those coupons falling due on and after the first day of July, 1874, and only such coupons of said bonds maturing after that time as should be presented to the Comptroller, who was required to examine the same, and if found to have been issued according to law, should be registered, and the registration properly indicated thereon by him and the secretary of state. It was also provided by the fifth section thereof, that the said act should not affect the liabilities of any railroad, turnpike, or other corporation or person, for or on account of the bonds issued or loaned or indorsed by the State for internal improvements or other purposes, nor any lien in favor of the State as against purchasers of delinquent railroads.

And these respondents say that all the holders of the bonds of the State, including the complainant, if he then held any such, or, if not, his predecessors in the ownership of any he may now hold, and those associated and acting with him in the prosecution of this and similar suits, accepted the provisions of these acts, and funded their overdue coupons, and received payment of current accruing interest after January 1, 1874, to January 1, 1876, in accordance with the terms thereof, and particularly that they registered their bonds, in compliance with the provisions of the ninth section of said act, and thereby assented to and adopted all the provisions of said act.

16. These respondents further say that in the meantime, on the 10th day of November, 1868, the governor of the State had informed the General Assembly that six railroads in the hands of receivers were at that time indebted to the State, on interest account due July 1, 1868, one million one hundred and twenty thousand nine hundred and ninety-six dollars and eighty-six cents, and stated that he would have seized two other roads for failure to pay the July interest of that year, and placed them in the hands of receivers, but that he had learned by experience that to do so would only entail increased burdens upon the State treasury, and expressed the opinion that the interest of these roads, as well as that of the State, required that they should be sold, and the proceeds thereof applied to the reduction of the State debt. In the same message, he said:

" Leading gentlemen, connected with important railroads largely indebted to the State, are asking for authority to issue second mortgage bonds, with a view of exchanging them for State bonds. Thus purchasing State bonds by the avails of these second mortgage bonds, the debt now due by the State would in like amount be transferred to these railroad companies, and so the State would be relieved of a burden of several million of dollars of debt now resting upon it. I regard this proposition with approval, and advise its adoption by the Assembly.

The payment of large debts now due from the roads alluded to, and the sale of the roads already in the hands of receivers, would reduce the State liabilities at least one-third."

And these respondents say that at that session, in pursuance of the policy thus recommended, the General Assembly passed, on February 25, 1869, the act entitled "an act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee," and on the 20th day of January, 1870, the act entitled "an act for the payment of the State debt," and on the 1st day of July, 1870, the act entitled "an act authorizing the sale and transfer of the interest of the State in delinquent railroad companies," and on the 8th day of July, 1870, the act entitled "an act appointing commissioners under certain circumstances to lease delinquent railroads," and on the 21st day of December, 1870, the act entitled "an act to amend the act of 1870, ch. 79, for the sale of interest of the State in delinquent railroad companies, passed July 1, 1870," and on the 13th day of December, 1871, the act entitled "an act to further enable railroad companies to pay their debts to the State and complete the construction of their roads."

And these respondents say, that at the session of the General Assembly in 1871, the governor, in his message to that body, stated that under said act of February 25, 1869, as amended by the Act of January 20, 1870, chap. 44, over eight million of dollars in the bonds of the State had been retired and canceled; that other roads had purchased and were then purchasing bonds with which to cancel their liabilities to the State under the said acts; and in order to prevent further delay on the part of solvent roads that had not retired their indebtedness to the State under said act, recommended that the act be either repealed, to take effect at some future time not remote, or that its provisions be so amended as that the roads be required to pay all accrued interest as well as the sinking fund not theretofore paid in. In the same document, the Governor also stated that but three of the delinquent railroads remained unsold, and added: "It will be a gratifying result when the State is entirely divorced from the railroad system. And, although the sales will not realize all that was desired, and leaves a large debt to be provided for, yet the internal improvement system of Tennessee has added millions to her wealth and diffused such energy and enterprise into every class of society, that no intelligent man can regret the policy which inaugurated the system, notwithstanding a large amount of appropriations made since the war have been improperly expended."

17. These respondents further say, that the several railroad companies to whom loans of internal improvement bonds had been made and the State of Tennessee dealt together under the said acts of February 25, 1869, and of January 20, 1870, according to the terms thereof, the various railroad companies who were able to do so, and who were on that account called solvent, purchasing in the open market, at the market price, bonds of the State of Tennessee, without discrimination as to their description, or on what account, or to whom issued, the only practicable mode in which they could make purchases of the public debt of the State, and paying them to the State in satisfaction of the indebtedness of such railroad companies to the State on account of its advances of its own bonds to them, and in discharge of the lien reserved therefor to the State under the Internal Improvement Law of 1852 and the amendments thereto; and in order to raise the means so to do, the said railroad companies issued their own bonds, secured by mortgages on their railroad prop-

erty as a first lien thereon, in substitution for that of the State, and declared by law and the certificate of the State to be first mortgage bonds, and the same were sold in the markets of this country and of Europe, on the faith thereof, to innocent purchases for value, to the amount of many millions of dollars, now outstanding; and that those railroads known as delinquent railroads, the corporations owning which were not able thus to liquidate their indebtedness to the State, were sold by the authority of the State, by virtue of judicial decrees, duly rendered in proceedings instituted and prosecuted by the State under and according to the provisions of the Act of December 20, 1870, to which all parties in interest, including the holders of State Internal Improvement bonds, were parties and bound thereby; and the purchasers thereof paid for the same, as by said act and decree they were authorized to do, in any bonds of the State.

And the respondents say that by virtue of said dealings and transactions, and in consequence thereof, the result, in regard to the reduction of the public debt reached, was as follows: The total bonded debt of the State, about the first of January, 1870, was about forty millions of dollars. The payments on account thereof, for and on behalf of railroad companies to whom internal improvement bonds were loaned, made into the treasury of the State, in bonds and coupons overdue, amount to twenty-one million four hundred and eighty-five thousand dollars, leaving the unpaid public debt of the State amounting to about nineteen million five hundred and fourteen thousand dollars. The account between the State and the two descriptions of railroads is as follows:

First. Defaulting railroads sold :

Bonds issued	$14,628,000 00
Int. funded, 1866	1,122,306 00
Int. unpaid, July, 1870	3,331,163 12
U. S. claims assumed	511,560 00
Total	$19,593,029 12
Amount realized by sale	6,698,000 00
Loss to State	$12,895,029 12

Second. Roads which have settled their indebtedness:

Bonds issued	$12,742,000 00
Int. funded, January, 1866,	1,850,768 00
Sinking fund paid	493,306 00
Unaccounted for	1,255,700 00

for a more particular account thereof, reference is hereby made to the statements herewith filed and marked Exhibit No. 5.

18. And these respondents further say that during the whole period of these transactions, from and including the settlement between the State and the Louisville and Nashville Railroad Company, beginning in May, 1865, and during the whole progress of this legislation, and of the liquidation, arrangements, and settlements authorized and required by it, and of the dealing between the railroad companies and the State, and of the railroad companies in borrowing money on the security of mortgages on their property, on the faith that all prior liens on account of the loans by the State of internal improvement bonds had been thereby removed and discharged or transferred by operation of law, to bonds issued by the railroad companies

in substitution therefor, the holders of the bonds of the State of Tennessee, in general, had knowledge of all that was taking place; the facts themselves were public, historical, and notorious, and the holders of Tennssee State Bonds, at an early stage in this series of transactions, formed a voluntary organization, represented by a committee, for consultation and co-operation in matters of common interest, and kept themselves well advised of each step in the history of the business; and on or about May, 1870, said bondholders, through their committee, of which J. J. Donaldson, Esq., was chairman, obtained a legal opinion from Hon. Henry E. Davies and Noah Davis, eminent counsel of the city of New York, affirming that they were in equity, beneficial owners of a lien under the act of 1852, reserved nominally to the State, upon each railroad, for the specific payment of the identical bonds issued to that railroad company, by virtue of a contract, protected by the Constitution of the United States; which opinion was printed in pamphlet form and generally circulated among the holders of the Tennessee State bonds, but not otherwise. And these respondents say, that he is informed, and believes, and so avers, that the said or a similar organization of Tennesseee State bond holders, has been kept up ever since, and that the present suit, and other similar suits, now pending are prosecuted in the name of the complainants, by a committee of such organization.

And these respondents say that at no time did the said holders of Tennessee State bonds, or any one of them, including the complainant or those associated and acting with him in the prosecution of this and similar suits, ever make any demand upon any railroad company for the payment of any interest on the said bonds, or receive from any railroad company payment of any coupon, or notify or inform, either directly or indirectly, any railroad company that it was claimed that any such liability, right, or lien existed, or make any objection to any of the acts of the State of Tennessee, inconsistent therewith, or object to the passage thereof, or oppose any payment, settlement, and liquidation, by any railroad company, of its indebtedness to the State, or make public, in any way, their claim as now asserted in this bill of complaint.

On the contrary thereof, these respondents say that they not only acquiesced in all the foregoing acts and transactions, by their tacit approval and consent, but that they actively advised and urged in individual cases, including the present complainant, or some one or more of those with whom he is and has been acting, the consummation of these arrangements, as beneficial to the holders of State bonds, and by frequent and public communications, to and with the authorities of the State, treated and dealt with it as their only debtor, and gave it to be understood that they looked to no other, and had no other to whom to look.

And these respondents say that on the 16th day of January, 1878, there was held, in the city of New York, a meeting of holders of Tennessee State bonds, the call for which was signed by the complainant, and others with whom he was then acting, and with whom he is still associated, and who, jointly with him, are prosecuting this and similar suits—namely, Eugene Kelly, Peter Geddes, John T. Terry, and others—and at which they were present and participating, and at which the following preamble and resolutions were adopted, viz.:

"*Whereas*, On the 8th March, 1877, at a meeting between a committee of five members of the Tennessee legislature (of which Col. John H. Savage was chairman) and a committee of arbitration (of which

Mr. George S. Coe was chairman), to whom had been referred the question of a fair and equitable adjustment between the Southern States in default and their bondholders, the debt of the State of Tennessee was fully discussed, with a view of ascertaining and determining what a fair and equitable adjustment of it would be; and,

"*Whereas*, At the conclusion of the conference between the committee of the Tennessee legislature and the committee of arbiters, the committee of arbiters made an award that the debt of the State of Tennessee ought to be readjusted by the issue of new bonds, at the rate of sixty per cent. of the total amount of the debt and interest, the new bonds to bear interest at six per cent., payable semi-annually, and the coupons for interest to be made receivable for all taxes and dues to the State; and,

"*Whereas*, The session of the legislature expired by constitutional limitation a few days after the award of the arbiters was rendered, and there was no time to enact a law to give it effect; and,

"*Whereas*, It was very generally understood that an extra session of the legislature would be convened, to accept a proposition from the bondholders to compromise the State debt, on the terms of the award of the committee of arbitration, and to enact a law to fully carry it out, the holders of a very large amount of bonds of Tennessee did make and send to the governor propositions of compromise on the terms of said award, and the governor did thereafter convene the legislature in extra session, to consider said proposition; and,

"*Whereas*, During the sitting of the legislature, the intervention of other parties, proposing and advocating before it other and different terms of settlement than those considered by the committee of the legislature and the committee of arbitration, and awarded by the latter committee, and agreed to by the bondholders, was prejudicial to the interests of the State of Tennessee, and to her creditors, in so far as it has delayed a settlement; and

" *Whereas*, The bondholders of Tennessee had neither an agent nor other person to represent them before the legislature, but confided in the legislature, and fully expected that the senators and resentatives of the people of Tennessee would ratify and affirm the award of the distinguished and disinterested gentlemen who had acted as a committee of arbitration, and accept the proposition of the bondholders made in accordance therewith, unhesitatingly; therefore,

"*Resolved*, That efforts made by any persons who purported to represent the bond holders of Tennessee were entirely unauthorized, and that the declaration alleged to have been made at Nashville, that a settlement could be effected with the bond holders upon a lower basis than that proposed by the committee of arbitrators, of which Mr. George S. Coe is chairman, has no foundation in fact, so far as it relates to the great body of bondholders.

"*Resolved*, That while we deplore the attitude assumed by the legislature, while assembled at Nashville, in December, toward the bondholders, we believe that it resulted from the influence of unwarrantable interference of other parties than real bondholders, or their representatives.

" *Resolved*, That we have an abiding belief that the people of the great State of Tennessee will not, by the rejection of honest claims which they are abundantly able to pay, suffer a stigma long to rest upon them, the effect of which will be to paralyze the prosperity of the State, subvert its best interests, and engender that demoralization which must ultimately result in losses to its citizens, even far greater than to its creditors.

"*Resolved*, That the people of Tennessee be urged to adopt such legislation as will uphold the honor of the State, and evince proper regard for the high integrity which has hitherto characterized her citizens.

"*Resolved*, That a committee of five be appointed, consisting of Eugene Kelly, John T. Terry (of E. D. Morgan & Co.), J. G. K. Duer (of James G. King's Sons), Peter Geddes (of Geddes & Smith), and Dr. R. S. Moran—Eugene Kelly to be chairman—to take such action as, in their judgment, may be for the interest of the bondholders; but with the understanding that no settlement less favorable than the award of the committee of arbitration be accepted."

And these respondents say that on the 11th day of December, 1877, the complainant, C. Amory Stevens, had addressed, by telegraph, from New York, to the governor of Tennessee, a communication, which was laid before the General Assembly, then in session, as follows:

New York, Dec. 11, 1877.

"Governor Jas. D. Porter:

"I am a large holder of Tennessee bonds, which have been held for years strictly for investment account. I was a signer of the former petition, sent you through the committee of arbitration; and while I would prefer to have that proposition accepted, yet, if it would require a revenue bill that is deemed by the legislature to be higher than the State can afford to pay without seriously retarding the prosperity of the people, I prefer to change the original offer, and hereby do change it. I propose to take fifty cents on the dollar. I think this dispatch represents the sentiments of most of the investment holders. They recognize the embarrassed condition of the State, growing out of the war, and are willing to meet the situation in a spirit of liberality,] and now ask the legislature, through your excellency, to reciprocate this feeling, and make a settlement without further delay.

"Please submit this to the legislature for its action.

"The Estate of Calvin Stevens,
"C. Amory Stevens, *Trustee.*"

And these respondents say that the public deb of the State of Tennessee, which was the subject of these communications and propositions, amounted at that time, as reported to the General Assembly by the Governor, in the same message which transmitted the proposition made through the committee of arbitration, to twenty-three millions two hundred and twelve thousand six hundred and six dollars, on the first day of January, 1878, and which consisted chiefly of bonds issued under the Internal Improvement Acts of 1851, 1852, and the amendments thereto, and those issued for past due interest, and known as funding bonds, constituted what remained of the outstanding bonds of the State, after the payment made by the railroad companies in satisfaction of their indebtedness to the State under the internal improvement acts, and the sale of the delinquent roads and the payment of the purchase-money thereof in the bonds of the State, as provided in the acts of 1869, 1870.

And these respondents say and insist that the construction of the internal improvements act, thus practically established by the subsequent legislation and dealing of the public authorities of the State, with the railroad companies and with its creditors, and universally acquiesced in, has thereby acquired the force of law, and ought not now to be questioned, much less disturbed, to the injury and loss of many innocent persons in this country and in Europe, who have invested large sums of money on the faith and credit thereof; and these respondents say that the complainant and those with whom he is associated and acting in this behalf, have, by their acquiescence in this course of dealing, invited and encouraged others to repose confidence and trust in the same, and ought not now to be permitted, in equity, to question the validity of transactions to which they have thus consented, and that whatever rights they may originally have had, as holders of State bonds adverse thereto, have been lost, by their own laches, acquiescence, and neglect to urge them, when they ought, if they had intended to insist upon them, and the claim now made so to do is, consequently, stale and inequitable.

19. And these respondents, further answering, say they deny all charges and allegation of fraud and bad faith made or imputed in said bill to their codefendants, or to the State of Tennessee.

20. And these respondents, further answering, say, that as soon as practicable after hearing of the pendency of this suit, they, with others, whose names are contained in the list hereto attached, marked Exhibit No. 1, respectfully requested the said trustees under the said mortgage to take the necessary steps to protect their interest against the claim of the complainant and other holders of Tennessee bonds, which he is wrongfully seeking to establish as a lien in his behalf prior to the first lien which the said trustees under the aforesaid mortgage hold for the benefit of the said mortgage bond holders, and further authorized them to use their names or any number thereof conjointly with their own, or if they should so elect alone, in prosecuting

the legal resistance which they desired said trustees to make against said wrongful claim of the complainant on behalf of himself and other holders of Tennessee bonds.

And these respondents say, that the said trustees have declined to appear in this cause in their own names, being advised that, as they are all citizens of the State of New York, and of the same State with the complainant, the nature and limits of the jurisdiction of this Court in this case forbids and prevents them so to do, and for that reason these respondents appear in their own names and behalf, and in behalf of all others whose names are in said list hereto attached, and all others similarly situated, who may choose hereafter to come in, and insist that, by reason of the premises, the claim of the complainant in the bill of complaint is without equity, and that the said mortgage to the said Iselin, Wilson, and Stevenson, for the uses and purposes therein mentioned, and for the benefit and security of the holders of the bonds therein described and intended to be secured, is the only subsisting lien on the said railroad and property therein conveyed and mortgaged.

21. And these respondents, therefore, by reason of the premises, pray that this answer may be taken as a cross-bill, and that the complainants and their codefendants may be made defendants thereto, and compelled to make answer unto, and that on final hearing this honorable Court will order, adjudge, and decree that said deed of trust and mortgage, herein set forth, to the said Iselin, Wilson, and Stevenson, trustees as aforesaid, for the benefit and security of the holders of the bonds therein described, is, in respect to the claim of the complainant, and of all other holders of the bonds of the State of Tennessee, the best and only lien and incumbrance on said property therein described, and that

these respondents and those whom they represent may be forever quieted in their said right and title under the same and the said mortgage, against the claim of the complainant and all other holders of bonds of the State of Tennessee, aforesaid, and that they be perpetually enjoined from hereafter setting up their claim as aforesaid, and for such other and further relief as these respondents and complainants in said cross-bill may in equity and good conscience, and according to the usages and practice of courts of chancery, be entitled to.

MATTHEWS, RAMSEY & MATTHEWS,
Solicitors for Defendants.
STANLET MATTHEWS,
Of counsel.

State and County of New York:

Personally appeared before me,...............

....

and made oath that he is the agent and attorney in fact, authorized to represent the respondents above named, who are aliens and non-residents, and that the facts stated in the foregoing answer are true to the best of his knowledge, information, remembrance, and belief.

....

Sworn to and subscribed before me, this....day

of...................., 1879.

....

APPENDIX.

Exhibit No. 1.

LIST OF COMPLAINANTS, HOLDERS OF NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY FIRST MORTGAGE SEVEN PER CENT. BONDS.—$6,800,000 LOAN.

Chas. Burckhardt......	Basle, Switzerland.	$13,000
Emilie Vonder Muhll..	Basle, Switzerland.	6,000
William Barbey........	Geneva, Switzerland.	9,000
Edward Fatio.........	Geneva, Switzerland.	4,000
Wm. Iselin & Co.......	Havre, France.	25,000
Georgine Latham......	Havre, France.	4,000
Chas. Vischer.........	Basle, Switzerland.	4,000
Henry Saladin........	Geneva, Switzerland.	1,000
Chas. Vonder Muhll...	Basle, Switzerland.	3,000
Sophie Mylius Von Willer	Milan, Italy.	15,000
Chas. Diggelmann.....	Zurich, Switzerland.	5,000
Samson Borceau.......	Lausanne, Switzerland.	5,000
Ad. Yoon.............	Paris, France.	10,000
Chas. Von Wuralt.....	Zurich, Switzerland.	2,000
Henry Freymond......	Paris, France.	2,000
Caroline Tscharner....	Havre, France.	10,000
Bourgeois Pestalozzi....	Zurich, Switzerland.	7,000
Louise Iselin..........	Basle, Switzerland.	15,000
Henrietta Iselin.......	Basle, Switzerland.	1,000

Exhibit No. 2.

DEED OF TRUST OR MORTGAGE OF THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY TO ADRIAN ISELIN, R T. WILSON, AND V. K. STEVENSON, TO SECURE THE PAYMENT OF $6,800,000 BONDS. DATED JULY 1873. PAYABLE JULY 1, 1913.

THIS INDENTURE, made the first of day July, A. D. one thousand eight hundred and seventy-three, between the Nashville, Chattanooga and St. Louis Railway, a corporation created, organized, and operated under and in pursuance of the laws of the States of Tennessee, Alabama, Georgia, and Kentucky, and herein designated party of the first part, and Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, of New York, and herein designated party of the second part.

Whereas, As the Nashville and Chattanooga Railroad Company purchased the Nashville and Northwestern Railroad; and,

Whereas, In pursuance of law, the name of the combined roads has been legally changed to the Nashville, Chattanooga and St. Louis Railway; and,

Whereas, By virtue of said purchase, and of the laws under which the said first party was created, and of its organization, and in the exercise of its corporate rights, powers, and franchises, the said first party became and is vested with all and singular the corporate rights, powers, privileges, and franchises, and likewise vested with, and owner and occupier of, all property, real, personal, and mixed, and of all debts due, choses in action, rights of way, contracts, and all and every other interest whatsoever, which were held, owned, and lawfully possessed or exercised by, or which in any way or manner belonged or appertained respectively to the Nashville and Chattanooga Railroad Company, and the Nashville and Northwestern Railroad Company, corporations created and organized under, and by virtue of, the laws of the respective States of Tennessee, Alabama, Georgia, and Kentucky, as fully and effectually as the same rights, powers, and privileges, franchises, property, debts, contracts, rights of way, and other interests were held, owned, and exercised by the said last named corporations, or either of them, at the time of the consummation of the organization executing these presents; and,

Whereas, Said Nashville, Chattanooga and St. Louis Railway has paid in part, and will pay in full, to the State of Tennessee, the purchase-money for the Nashville and Northwestern Railroad, and has also paid in part, and will pay in full, under the laws of the State of Tennesssee, the indebtedness of the Nashville and Chattanooga Railroad Company, for all bonds loaned it by said State, and will likewise deposit in the hands of the comptroller of the State of Tennessee, as prescribed by the act of 1871, chapter 144, section 2, of the laws of the State of Tennessee, fourteen hundred and twenty-five thousand dollars of this issue of first mortgage bonds, herein secured, being equal to the amount of bonds indorsed by the State of Tennessee for said Nashville and Chattanooga Railroad Company, now outstanding, and which fourteen hundred and twenty-five thousand dollars of six per cent. bonds, and one million dollars bearing four per cent. per annum interest, and held by the United States government (against which latter sum an equal amount of the issue of bonds here secured are to be reserved, and set apart to be hereinafter issued, by the party of the first part, to be used only in paying off and discharging the said one million dollars, so long as the aforesaid liability of one million dollars, or any part thereof, remains unpaid), these two amounts of fourteen hundred and twenty-five thousand dollars, and one million dollars, are all the bonded obligations of any kind, other than the issue therein secured, of said corporation ; and,

Whereas, To enable the said party of the first part to raise money with which to liquidate, pay, satisfy, and fully discharge the indebtedness incurred in the purchase, reconstruction, and equipment of the Nashville and Northwestern Railroad, and also for the purpose of perfecting its line of railway, and enlarging the capacity, and extending the operating facilities for the business thereof, and also for the purpose of paying at maturity the present outstanding bonds and indebtedness, as above stated, the said party of the first part, acting in its regular annual convention of its stockholders, and by and through its board of directors, has resolved to issue and dispose of its bonds to an amount not to exceed twenty thousand dollars per mile on the main line and branches of its railroad, and to secure the payment of the same by a first mortgage, or deed of trust, on all property and franchises of said company ; and,

Whereas, The party of the first part has prepared and executed, or will hereafter prepare and execute, its bonds of one thousand dollars ($1,000) each, numbered from one (1) to six thousand eight hundred (6,800) inclusive, to the amount of six million eight hundred thousand dollars ($6,800,000), dated July 1, 1873, one million dollars ($1,000,000), of which to be set apart as aforesaid, to be hereafter issued, shall be of such rate of interest, not exceeding seven per cent. per annum in currency, or six per cent. per annum in gold, and in such form as may be hereafter prescribed by the said party of the first part; but falling due at like time with the bonds of five million eight hundred thousand dollars, hereinafter mentioned, and the remaining five million eight hundred thousand dollars ($5,800,000), payable in lawful money of the United States, in New York, forty (40) years after date, bearing interest at the rate of seven per centum per annum, with coupons or interest warrants attached, payable semi-annually in lawful money of the United States, in New York; or payable in gold coin of the United States, and bearing interest at the rate of six per cent. per annum, payable in like gold coin of the United States, at New York, are, with the coupons to be thereto annexed, and the certificates to be indorsed thereon, to be in the following forms, that is to say:

United States of America.

FIRST MORTGAGE BOND.

$1,000. $1,000.

No. ——. No. ——.

The Nashville, Chattanooga and St. Louis Railway promises, for value received, to pay the holder of this bond, on the first day of July, nineteen hundred and thirteen, the sum of one thousand dollars, in lawful money of the United States, in the city of New York, with interest thereon, in the meantime, at the rate of seven per cent. per annum, payable in like lawful money at New York city, semi-annually, on the first days of July and January in each year, on presentation and surrender of the annexed interest warrants, or when the bond is registered, and without coupons, to the registered owner thereof, on demand.

This bond, with others issued and to be issued, amounting in the whole to not more than six million eight hundred thousand dollars ($6,800,000), bearing interest not exceeding seven per cent. a year in gold, is secured by a first mortgage lien on the railway and franchises, and all the property of said railway, to Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, of New York, as trustees, bearing date the first day of July, one thousand eight hundred and seventy-three, and shall pass by delivery or by transfer on the books of the company. After a registration of ownership, certified hereon by the transfer agent of the company, no transfer, except on the books of the company, shall be valid unless the last transfer be to bearer.

In witness whereof, the Nashville, Chattanooga and St. Louis Railway has caused this bond to be signed by its president and secretary, and its corporate seal to be hereunto affixed, at the city of Nashville, State of Tennessee, the first day of July, Anno Domini, one thousand eight hundred and seventy-three.

——, *President.*

——, *Secretary.*

This is to certify that the lien of the State of Tennessee, on the Nashville and Northwestern Railroad, and on the Nashville and Chattanooga Railroad, now merged in the Nashville, Chattanooga and St. Louis Railway, has been paid and satisfied as follows, viz.:

By the payment in full to the State of Tennessee, for the purchase-money of the Nashville and Northwestern Railroad, and by the payment in full for the loan of the bonds of the State of Tennessee to the Nashville and Chattanooga Railroad, and by a deposit in my hands, in the manner required by the act of 1871, chapter 144, § 2, of dollar for dollar, of the issue of consolidated bonds to be held against the outstanding bonds of the Nashville and Chattanooga Railroad Company, indorsed by the State.

———, *Comptroller of the State of Tennessee.*

And the coupons, annexed to which bonds are in the following form:

$35.00. $35.00.

The Nashville, Chattanooga and St. Louis Railway, will pay to the bearer, in the city of New York, thirty-five dollars, in the lawful money of the United States, on the first day of ——, ——, for semi-annual interest on bond No.——.

———, *Secretary.*

FORM OF CERTIFICATE OF TRUSTEES.

We hereby certify that this is one of the bonds issued under the mortgage herein referred to.

———,

———,

———,

Trustees.

United States of America.

FIRST MORTGAGE BOND.

$1,000. $1,000.

No. ——. No. ——.

The Nashville, Chattanooga and St. Louis Railway promises, for value received, to pay to the holder of this bond, on the first day of July, nineteen hundred and thirteen, the sum of one thousand dollars, in gold coin of the United States, in the city of New York, with interest thereon at the rate of six per cent. per annum, payable in like gold coin, at New York city, semi-annually, on the first days of July and January in each year, on presentation and surrender of the annexed interest warrants, or when the bond is registered and is without coupons, to the registered owner thereof, on demand.

This bond, with others issued and to be issued, amounting in the whole to not more than six million eight hundred thousand dollars, bearing interest not exceeding seven per cent. a year in currency, or six per cent. a year in gold, is secured by a first mortgage lien on the railway and franchises, and all the property of said railway, to Adrian Iselin, Richard T Wilson, and Vernon K. Stevenson, of New York, as trustee, bearing date the first day of July, one thousand eight hundred and seventy-three, and shall pass by delivery, or by transfer, on the books of the company. After a registration of ownership, certified hereon by the transfer agent of the company, no transfer, except on the books of the company, shall be valid, unless the last transfer be to bearer.

In witness whereof, the Nashville, Chattanooga and St. Louis Railway has caused this bond to be signed by its president and secretary, and its corporate seal to be hereunto affixed, at the city of Nashville, State of Tennessee, the first day of July, Anno Domini, one thousand eight hundred and seventy-three. ——, *President.*

——, *Secretary.*

This is to certify that the lien of the State of Tennessee, on the Nashville and Northwestern Railroad, and on the Nashville and Chattanooga Railroad, now merged into the Nashville, Chattanooga and St. Louis Railway, has been paid and satisfied, as follows, viz :

By the payment in full to the State of Tennessee for the purchase-money of the Nashville and Northwestern Railroad, and by the payment in full for the loan of the bonds of the State of Tennessee to tha Nashville and Chattanooga Railroad, and by a deposit in my hands, in the manner required by the act of 1871, chapter 144, § 2, of dollar for dollar of this issue of consolidated bonds, to be held against the outstanding bonds of the Nashville and Chattanooga Railroad Company, indorsed by the State.

——, *Comptroller of the State of Tennessee.*

And the coupons annexed to which bonds are in the following forms:

$30.00 30.00.

The Nashville, Chattanooga and St. Louis Railway will pay to the bearer, in the city of New York, thirty dollars, in gold coin of the United States, on the first day of—— ——, for semi-annual interest on bond.

No. ——. No.——.

——, *Secretary.*

FORM OF CERTIFICATE OF TRUSTEES.

We hereby certify that this is one of the bonds issued under the mortgage therein referred to.

——,
——,
——,
Trustees,

Which coupons are to be issued with the engraved signature of the said company, and when thus issued by said company, are to be binding upon it as if such signature were written by the secretary.

Now, therefore, this indenture witnesseth: That for the purpose of securing and making more sure and certain the payment of the sums of money mentioned and provided for in the above mentioned bonds, to the aggregate amount of six million eight hundred thousand dollars, bearing even date herewith, and each and every one of them, with the interest thereon, according to the true intent and meaning thereof, and in consideration of the recited premises, and the sum of one dollar to the said first party in hand paid by the parties of the second part, at and before the sealing and delivery hereof, the receipt whereof is hereby acknowledged by the said party of the first part, the Nashville, Chattanooga and St. Louis Railway, the party of the first part aforesaid, has granted, bargained, sold, assigned, transferred, and conveyed, and by these presents does grant, bargain, sell, assign, transfer, and convey unto Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, the parties of the second part, their heirs and assigns forever, and to their successor or successors in the trust, and assigns, all and singular, the estate and property, real, personal, and mixed, and all fixtures, rights, privileges, franchises, easements, under leases, terms and parts of terms, agreements, covenants, and contracts, of all and every kind, held and owned or occupied by said party of the first part, or whereunto it is entitled; including especially all and singular the railroads and railways of said company, with the appurtenances thereof, from and including the terminus and depot at Chattanooga, in the county of Hamilton, in the State of Tennessee, and thence, *via* Stevenson, in Jackson county, in the State of Alabama, to the city of Nashville, in Davidson county, in the State of Tennessee; thence, *via* McKenzie, in Carroll county, in the State of Tennessee, to and including the terminus in the town of Hickman, on the Mississippi river, in Fulton county, State of Kentucky; being a distance of about three hundred and twenty-one miles of main line, and also and including the line from the town of Wartrace, in Bedford county, State of Tennessee, to the town of Shelbyville, in said Bedford county, State of Tennessee, the distance from said Wartrace to Shelbyville being eight miles; also, including the line from the town of Bridgeport, in the county of Jackson, in the State of Alabama, to the town of Jasper, in the county of Marion, in the State of Tennessee, said distance from Bridgeport to Jasper being eleven miles, including the terminus and depot in each and all of said towns. Making a total length of main line and branches of three hundred and forty miles.

Together with all and singular, the lands, tracks, lines, rails, bridges, ways, rights of way, and materials, buildings, piers, wharves, erections, fences, walls, fixtures, privileges, rights and interests, real estate, personal property, choses in action, leasehold, and other things of and belonging to said party of the first part, of every kind, nature, and character, in either of the States of Tennessee, Alabama, Georgia, and Kentucky; the said lands in the city of Nashville being about thirty acres, and in the city of Chattanooga about seventeen acres, and all the tolls, income, issues, and profits to be had or derived from the same, or any part or portion thereof, or from any part or portion of said term or terms, or either of them; and all right to receive or recover the same, and all railway stations and depots, with all the appurtenances necessary and convenient for the sole, complete, and entire use and operation, as well as maintainance of the said road or railways, owned or leased by said first party, and also all the rolling stock, locomotives, engines. tenders, cars, carriages, tools, and machinery, now owned, or hereafter to be acquired, by said party of the first part, belonging or appertaining to said railroad and railways, so owned as aforesaid; and also all the improvements or additions made or to be made to any or all of said properties, estates, railroads or railways, and their appurtenances, by said party of the first part or by others. But this provision shall not be construed to include other railroads, or parts of roads, which the party of first part may hereafter purchase or construct.

Also all and every estate, interest, property, or thing, as well real or mixed as personal, which the said party of the first part owns or holds, or may and shall hereafter acquire and hold, necessary or convenient for the use, occupation, operation, and enjoyment of all or any of its railroads, railways, leases, and property, rights, privileges, and franchises, or any part or portion thereof; and also all rights and privileges to use the said road-bed, tracks, sidings, turnouts, and switches, constructed at the execution of these presents, or which may or shall be hereafter constructed for the convenient use of said railroad or railways, or any of them, owned or operated by said first party, as fully and effectually as the said company, party of the first part, is or may be by law entitled to have or acquire, and all the rights, privileges, and franchises of the said party of the first part, pertaining to the railroads or railways hereinbefore mentioned, or any of them, or the operation, use, or enjoyment thereof. But nothing herein contained shall be held, understood, or construed to prevent said party of the first part from selling, hypothecating or otherwise disposing of any money or securities received from proceeds of any debts of claims now due, or which may hereafter become due, to said company, or from disposing of, by and with the consent in writing of the parties of the second part or their successors in the trust, given under the power in that behalf hereinafter contained, any lands or other property and effects not forming part of said railways, and not essential or necessary to be retained for the said railways, depots, or station grounds, nor required for the construction, maintenance, or convenient use and operation of the said railways.

Provided, That the said first party shall diligently proceed to apply all such means and proceeds to improving and equipping said railways, and other like necessary purposes thereof; and,

Provided also, that no default shall have been made, and at the time remain, in the payment of the interest or principal of any of the bonds hereby secured; and,

Provided further, That the trustees, for the time being, under this mortgage, shall have full power, upon the request of the party of the first part, from time to time, to release from the lien and operation of this mortgage, and permit the party of the first part to convey and dispose of any lands or property not at the time forming part of said mortgaged railways, which, in the judgment of the trustees, shall not be requisite for use, for or in connection with said railroad, or the maintenance, use, or operation thereof, or which may have been held for a supply of fuel, gravel, or other material, and be no longer required therefor; and also to release and permit to be conveyed and disposed of as aforesaid, any lands not occupied by the then existing track, which may have become disused by reason of a change of the location of any station house, depot, shop, or other building connected with the said railroad, or any straightening or alteration of the line of the road, and such land occupied by the track and adjacent to such station house, depot, shop, or other buildings, as the said parties of the first may deem it expedient, and determine to disuse or abandon by reason of such change, and to consent to any such change, and to such other changes in the location of the track, or depot, or other building as shall have become expedient, and to make and deliver the conveyances necessary to carry the same into effect.

Provided, That any lands or properties which may be acquired for permanent use in substitution for any so released, shall be conveyed to the trustees, upon the trusts of these presents; and the trustees shall also have full power to allow the said party of the first part, from time to time, to dispose of such portions of the equipment, machinery, and implements at any time held and acquired for the use of the said railroad as may have become unfit for use; provided, that such old equipment, so disposed of, shall be replaced by new which shall be subject to the effect and operation of this mortgage.

To have and to hold the said railroads and appurtenances and equipments, and estate, property, rights, privileges, franchises and interests above conveyed or transferred,or intended intended so to be, together, with all and singular emoluments, incomes and advantages, tenements and hereditaments, and appurtenances thereto belonging to or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, unto the said parties of the second part, and their heirs, successors and assigns as aforesaid, for the equal, *pro rata*, security and benefit of all such persons or corporations as shall become or be, from time to time, the lawful owners or holders of the above described bonds to the aggregate amount of six million eight hundred thousand dollars, or any of them, or such of the same as shall be issued without preference of priority of any of such bonds over any of the others, by reason of priority in the time of issue thereof, or otherwise, howsoever, and upon the trusts and for the uses and purposes herein declared.

Provided always, and these presents are made and executed upon the express condition, that if the said party of the first part shall well and truly pay, or cause to be paid, to the holders of the said bonds or obligations intended to be secured hereby, and each and every of them, the principal sums of money therein mentioned, at the maturity thereof, according to their true intent and meaning, and shall also pay the interest thereon accruing. at the times and in the way and manner therein, and in the coupons provided, according to the true intent and meaning of these presents, that then, and from thenceforth, this indenture, and the estate hereby granted, shall cease, determine, and be utterly void and of none effect, without any other release or formal reconveyance, re-entry, acknowledgment of satisfaction, or any other act whatsoever.

And the said party of the first part, in consideration of the premises, hereby covenants and agrees to and with said parties of the second part, their successor and successors, in said trust and assigns, that the said party of the first part will,at any time or times hereafter, upon the reasonable request of the said party of the second part, its successors or assigns, make, do, execute, and deliver, or cause to be done, made, executed and delivered, all and every such further and other reasonable acts, deeds, conveyances, assignments and assurances in the law for the better and more effectual vesting and confirming the premises, property, rights and interests hereby granted, or intended so to be, and especially for conveying property subsequently to the date hereof acquired by the said party of the first part, and comprehended in the description contained in this indenture, if any such there be, to the said parties of the second part, as trustees, for the uses and purposes of this indenture, and to their successors, heirs and assigns, as by them, or their counsel learned in the law, shall reasonably be devised, advised or required; and further, that the said first party will do and perform all the things on the part of the said first party to be done and performed, as hereinbefore set forth, and faithfully apply all the money and other things arising from the issue of said bonds to the purposes hereinbefore recited or mentioned as the objects thereof; and further, that the said first party will pay unto the holder or holders of the said bonds, respectively, the said principal sums of money therein respectively mentioned, and the interest thereon, and as expressed therein, as the same shall become due and payable.

And it is hereby further covenanted, granted, declared, and agreed that,in case of default in payment of either principal or interest money secured hereby, and the continuance of such default for two months after such default shall first have been made or suffered, the said first party shall, and will, on demand made, after the expiration of such two months, by the parties of the second part, their successors and assigns, trustee or trustees, for the time being, or their agent or agents, duly authorized in writing, assign or transfer, in due form, to them or their agents so authorized, the actual possession of all the herein-granted and conveyed property and premises herein recited and mentioned, or intended to be embraced in this trust.

And further, that the expense of taking, holding and managing said property and premises, if possession be taken, shall be paid from the income, and, if necessary, from the sale, hereinafter provided for, of the property and premises, by the said trustee or trustees, as the case may be, for the time being.

And further, that in such case, the parties of the second part, or their successors, shall and may, by themselves, or their officers and agents, take and receive, collect and have the income and profits of the said railways and other property, first applying the same to the payment and discharge of all current necessary operating expenses and repairs, including the expenses hereinbefore mentioned, and all taxes and other similar charges. And next to the equal *pro rata* payment of all sums of money due and payable for interest upon the aforesaid bonds, issued by the said first party, and hereby secured according to the tenor thereof; and next, should there be any surplus, on account of the principal of such bonds, with *pro rata* equality.

And further, that the said parties of the second part, their successors in said trust or assigns, having entered, as hereinbefore mentioned, into the possession of the premises, property, and estate hereby conveyed, or without having entered into such possession (the said default still continuing), at his or their discretion, and with the approbation of such court or courts of record, either State or Federal, as may have jurisdiction over like trusts in the State of Tennessee may, or on the written request of the holders of at least one-eighth of the bonds hereby secured, and then outstanding and unpaid, shall proceed to sell and dispose, or cause to be sold or disposed of, as such court shall direct or approve, all the premises, property, rights, things, interests, franchises, and estate hereby granted and conveyed, or intended so to be, or as much thereof as shall be necessary to pay and discharge the principal and interest according to the tenor thereof, of all of such of said bonds hereby secured and then outstanding, as may have been issued by said first party; together with all the benefit and equity of redemption of said party of the first part therein, by *public auction*, either in the city of Nashville, State of Tennessee, or in the city of New York, to the highest bidder, having previously given public notice of the time, place, and terms of said sale, and of the property to be sold, by publishing the same in at least two newspapers of good general circulation in each of said cities, and wheresoever else the trustees may deem expedient, or as may be required by law, at least twice in each week, for a period of at least *ninety days* previous to such sale; and as the attorney or attorneys of the said first party, for that purpose, and by these presents duly constituted and appointed, to make, execute, and deliver to the purchaser or purchasers thereof, a good and sufficient deed, or deeds, of conveyance in the law for the same, granting and assuring to said purchaser or purchasers all such estate, rights, property, franchises, and interests, and to the same extent as the said first party had therein at the date hereof, or at any time subsequent; and also a good and sufficient transfer and assignment of said personal property, choses in action, contracts, and leases; and out of the moneys arising from such sale or sales, it shall be lawful for, and the duty of, such trustees, after first retaining the cost and charges of advertisement, and of the said sale of the premises, and all other unreimbursed sums of money which said trustees or their successors in said trust may have been obliged to pay, by reason of their taking possession of and operating said premises, and a reasonable allowance for their own services, and for legal professional advice, aid, and assistance in effecting and consummating said possession, operation, and sale; then to pay, in so far as such proceeds shall suffice therefor, and in equal *pro rata* proportions in case of deficiency, the principal and interest, whether then due or yet to become due, which shall then remain unpaid on said bonds remaining issued and outstanding, and hereby secured, as aforesaid, for the benefit of, and to be paid to the holders thereof, with *pro rata* equality, and then restore the residue of said proceeds, if any there be, to the said party of the first part, its successors or assigns, or to whomsoever shall be lawfully entitled thereto. *It being* hereby expressly understood that the bonds issued by said first party, and secured by these presents, shall be ratably receivable, if desired, by the holders thereof, in payment of said sale by said trustees or their successors, to the extent of the amount of the net proceeds of such sale, properly applicable to the payment of such bonds respectively; and the sale, when fully consummated, shall be a perpetual bar, both in law and equity, against the said party of the first part, and all persons claiming, or to claim, the premises, or any part thereof, by, through, or under said party of the first part, subsequent to the date of these presents; and in no case shall any claim or advantage be taken of any stay, valuation, appraisement, or extension or redemption law or laws, now existing or hereafter enacted by any State in which any part of the mortgaged premises may be, by the party of the first part, its successors or assigns. Nor shall there be obtained or applied for, any injunction or stay of lawful proceedings herein or in respect thereof. Nor shall any process be applied for or be obtained by the said party of the first part, its successors or assigns, to prevent, or obstruct, or stay such lawful entry or sale as aforesaid; but the benefit of all present and future stay, valuation, appraisement, extension, or redemption laws, which might otherwise be applicable, is hereby expressly waived by the said party of the first part; and in case of a sale, as aforesaid, the party of the first part hereby waives all right of redemption.

And it is hereby further provided, declared, and agreed, that no bond shall be deemed to be issued under this mortgage, or entitled to the benefit of the security thereby provided, unless there shall be indorsed thereon a certificate signed by the three trustees, for the time being, to the effect that the same is issued under the said mortgage.

And the said party of the first part doth hereby covenant and agree to and with the said parties of the second part, as trustees, for and for the benefit of the holders, for the time being, of the bonds, to the extent of six million eight hundred thousand dollars, to be issued under and secured by this mortgage, and to and with all persons and corporations, who or which shall become, or be lawful owners or holders of any of the said bonds so issued and secured, respectively; that so long as any of the said bonds shall remain outstanding, the said party of the first part shall and will remain and keep up a transfer agency in the city of New York, whereat any and all of the said bonds secured hereby shall, upon the request of the holders thereof, be entitled to be registered in the name of such holder, upon a book of said company, to be there kept for that purpose, and to have indorsed thereon, by the transfer agent, a certificate or statement of being so registered; and such bonds shall be transferable upon such registry by the registered owner or his lawful attorney, which transfer shall be noted on the bond, by indorsement by the said transfer agent.

And any of such bonds shall in like manner be registrable in the name of the holder, upon register book of said party of the first part, to be kept for the purpose at its office in Nashville, and transferable upon such registry as aforesaid; which registration or transfer upon the registry shall, in like manner as aforesaid, be noted by indorsement upon the bond by the proper officer of the company.

Whenever a bond is registered, either at the transfer agency in New York, or at the company's office in Nashville, the holder may surrender the coupons, if the same shall have been issued with coupons, and in such case the coupons so surrendered shall be canceled, and the interest upon such bond shall thereafter be payable only to the registered owner of the bond, at the time being, or his lawful attorney.

But a bond may be registered, either at the transfer agency in New York or the company's office in Nashville, without surrendering the coupons, but leaving the same in the hands of the holder of the bond; in which case, though the principal of the bond will be payable only to the registered owner, the coupons will be payable to the bearer upon presentation, and will be negotiable by delivery, as if the bond were not registered.

Any bond registered without surrender of coupons, may be at any time transferred on the registry to bearer, after which it will be again negotiable by delivery, as if it had never been registered; but it shall still be entitled to be again registered in the name of the owner, for the time being, in like manner and with like effect, as if the previous discharged registration had never taken place.

And this indenture further witnesseth, that these presents and the said bonds hereby secured, or intended so to be, are made, executed, issued and delivered upon the terms, conditions and agreements following, that is to say:

First. That the actual possession, use, and management of all the hereinbefore granted estate, property, and premises shall be and remain in and with the said party of the first part so long as all the bonds so issued shall be and remain without forfeiture or default in respect of interest or otherwise.

Second. That in case of any vacancy in the said trusteeship hereunder, by the incapacity to act, or the resignation of the said trustees, or from any other cause, all the estate, right, interest, power, and control of the trustee, whose place shall be thus vacated, shall be thereupon divested and cease and determine, but without destroying, or without any discontinuance of the trust; and the said party of the first part shall, or upon its default or omission to take proceedings therefor, for thirty days after notice of such vacancy or incapacity, the holders of not less than ten per centum in amount of the said bonds hereby secured, then outstanding, may apply to any of the Chancery or Supreme Courts in the State of Tennessee, having jurisdiction in the premises, to appoint a new trustee or trustees, to supply the vacancy ; and such proceedings may be had as often as the like occasion may require for the appointment of a trustee to execute the trust herein declared ; and, when so appointed, such new trustee shall thereupon become vested, for the purposes of said trust, with all the estate, rights, interests, powers, property, and control hereby conveyed or granted to or vested in the trustee, whose successor he shall be, without any further assurance, grant, or conveyance of the same, as fully and effectually as if such appointment had been originally made herein. But if the same shall be required, both the said party of the first part and such new trustee, or either of them, and the retired trustee, or his representative, shall make, execute, and deliver all necessary conveyances and agreements and grant all powers and authorities for that purposes.

Provided further, and it is further declared and agreed, any thing hereinbefore contained to the contrary notwithstanding, that it shall be competent for the holders of a majority in amount of the bonds issued under and secured by this mortgage, and, at the time being, remaining outstanding, by instrument, or concurrent instruments, under their respective hands and seals, to remove any of the trustees, at the time being, under this instrument, other than the three original trustees herein named, whether such substituted trustee shall have been appointed by a court or otherwise; and, by the same instrument or instruments, to appoint a new trustee in place of the one so removed ; and every trustee thus appointed by a majority in amount of the bond holders shall stand in the place of the one so removed, and be vested with, and subject to, the like estate, trust, rights, powers and duties.

And it is further understood and agreed by and between the parties to these presents, that the said parties of the second part, their successor or successors in the said trust, shall only be accountable for reasonable diligence in the management thereof, and shall not be responsible for acts or negligences of any agent or agents necessarily employed by them, when such agent or agents are selected with proper discretion, or with the approbation of the said party of the first part. And neither trustee shall be answerable for the act, neglect, or default of the other trustee or either of them.

And the said trustees, and their successors, are hereby released from executing the bond required of trustees under section 1974 of the code of Tennessee, and from giving any bond or security as such trustees.

And the officers of said railroad company shall have, at all times, the right to inspect the books kept by the receivers of the road and their agents.

And this indenture further witnesseth, that the said parties of the second part hereby accept the aforesaid trust, and also covenant and agree to and with the said party of the first part to execute the same upon, and subject to, the terms and conditions hereinbefore as well as hereinafter mentioned and provided, and which said terms and conditions are hereby mutually agreed to and upon by both parties to these presents.

And it is hereby provided and agreed that the said trustees and their successors may employ and advise with legal counsel, and that the expense thereof, as well as other personal expenses of the said trustees, for the time being, in the discharge of said trust, and all other their reasonable charges and expenses thereof, including their compensation, shall be paid by the party of the first part, as they are incurred ; and, if not so paid, then the same may be paid or retained out of the trust estate or income on which, or to which, they are chargeable ; and likewise, that the said trustees or their successors shall not be required to act in the execution of said trust, except at their own option, unless the party requesting them so to do shall furnish them reasonable indemnity against the loss, costs, trouble and expense they may incur or be at in so doing. That they, in the execution of said trust, may employ agents and attorneys in fact, to act in their behalf, whenever required to act as aforesaid, except when they may be, or are, required by law to act personally. And also, that all covenants and agreements hereinbefore contained or implied may be executed specifically by and through any of the said courts of competent jurisdiction, as practised by them in like cases of trust.

It is fully understood that any two of the trustees aforesaid, or their successors, shall be sufficient for carrying into effect the purposes of this trust, except certifying the bonds as being issued under this mortgage, which certification must be by three trustees.

In witness whereof, the said party of the first part, in pursuance of authority given by the law, and in conformity with the order of the stockholders, acting in annual meeting, and the board of directors, has caused this indenture to be signed by its president and its secretary, and the corporate seal of the company to be affixed thereto; and the parties of the second part have hereunto subscribed their names and affixed their seals, the day and year first in this indenture mentioned.

Signed, sealed and delivered
in presence of

Words "dollars so long as," on 3d page written over an erasure. "Rail," on 17th page, written over an erasure. "However," on 22nd page, written over an erasure." "For that purpose and to have indorsed," on 32nd page, written over an erasure. "Negotiable," on 33d page, written over an erasure; and negotiable," on 34th page, written over an erasure, before executing.

WILLIAM H. CLARKSON,
C. H. BOSHER.

As to Adrian Iselin, Richard T. Wilson, and Vernon K. Stephenson, Trustees—

ADRIAN ISELIN, [SEAL.]
R. T. WILSON, [SEAL.]
V. K. STEVENSON, [SEAL.]
Trustees.

STATE OF NEW YORK,
City and County of New York. } *ss.*

Personally appeared before me, a commissioner of the State of Tennessee, in and for the State of New York, residing in the city of New York, the foregoing named trustees, Adrian Iselin, Richard T. Wilson, and Vernon K. Stephenson, with whom I am personally acquainted, who acknowledged that they executed the foregoing instrument, for the purposes therein contained.

W. H. C.
Tenn. Comm'r.

In witness whereof, I have hereunto set my hand, and affixed my official seal, this 16th day of December, A. D. 1873.

**William H. Clarkson,
a Commissioner for
Tennessee, in the State
and City of N. Y.**

WILLIAM H. CLARKSON,
Commissioner for Tennessee in New York,
117 Broadway, New York City.

STATE OF NEW YORK,
City and County of New York. } *ss.*

I, William H. Clarkson, a commissioner of the State of Alabama, in New York, residing in said City of New York, do hereby certify that Adrian Iselin, Richard T. Wilson, and Vernon K Stevenson, trustees, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me, on this day, that, being informed of the contents of said instrument, they executed the same voluntarily, on the day the same bears date.

In witness whereof, I have hereunto set my hand, and affixed my official seal, this 16th day of December, A. D. 1873.

WILLIAM H. CLARKSON,
Commissioner for Alabama in New York.
117 Broadway, New York City.

William H. Clarkson,
a Commisioner for
Alabama, State and
City of New York.

STATE OF NEW YORK,
City and County of New York. | *ss.*

Be it remembered, that on the 16th day of December, A. D. 1873, before me, William H. Clarkson, a commissioner of the State of Georgia, in New York, residing in the City of New York, personally appeared Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson. trustees, to me personally known to be the individuals named in, and who executed, the foregoing instrument, who acknowledged that they executed the same for the purposes therein named and mentioned.

In witness whereof, I have hereunto set my hand, and affixed my official seal, this 16th day of December, A. D. 1873.

WILLIAM H. CLARKSON,
Commissioner for Georgia in New York.
117 Broadway, New York City.

Willtam H. Clarkson,
a Commissioner for
Georgia, State and
City of New York.

STATE OF NEW YORK,
City and County of New York. } *ss.*

I, William H. Clarkson, a commissioner of the State of Kentucky, for New York, residing in said City of New York, do certify that the foregoing instrument, from the Nashville, Chattanooga and St. Louis Railway to Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, trustees, was this day produced to me, by the said Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, and acknowledged by the said Adrian Iselin, Richard T. Wilson, and Vernon K. Stevenson, to be their act and deed.

In witness whereof, I have hereunto set my hand, and affixed my official seal, this 16th day of December, A. D. 1873.

WILLIAM H. CLARKSON,
Commissioner of Kentucky in New York.
117 Broadway, New York City.

William H. Clarkson,
a Commissioner for
Kentucky, in the
State andCity of N.Y.

STATE OF TENNESSEE, } ss.
Davidson County. }

On this 7th day of February, 1874, before me, W. G. Ewin, clerk of the county court of said county, personally appeared E. W. Cole, to me personally known, and known to me to be the president of the Nashville, Chattanooga and St. Louis Railway, the grantor described in, and who executed, the foregoing instrument, and W. A. Gleaves, to me personally known, and known to me to be secretary of the said company, and being by me duly sworn, did personally depose and say, that they were such president and secretary, respectively, of the said Nashville, Chattanooga and St. Louis Railway; that the seal affixed to the foregoing instrument is the corporate seal of said company, and was thereunto affixed by said authority of said corporation, and that they, respectively, subscribed their names thereto, as such president and secretary, by like authority.

Witness my hand and seal of office, at office, the 7th day of February, 1874.

(SEAL.) W. G. EWIN,
Clerk.

Exhibit No. 3.

NUMBER XXXVIII. — JOINT RESOLUTION APPOINTING COMMISSIONERS TO SETTLE WITH THE LOUISVILLE AND NASHVILLE RAILROAD.

Resolved by the General Assembly of the State of Tennessee, That the comptroller, secretary of the State, attorney-general of the State, and commissioner of public roads of the State of Tennessee, be, and are hereby constituted commissioners on behalf of the State of Tennessee, to meet and make a settlement with the Louisville and Nashville Railroad Company, and make a report thereof to this session of the General Assembly, if practicable; if not, to the next session of the same,

Be it further Resolved, That if such settlement cannot be made by said commissioners, with said Louisvile and Nashville Railroad, as shall be satisfactory to them, the fact shall be made known to the governor of the State, and he may direct the attorney-general of the State to institute such proceedings against said company as may be necessary to protect the interests of the State.

WILLIAM HEISKELL,
Speaker of the House of Representatives.
SAMUEL R. ROGERS,
Speaker of the Senate.

Dated *May* 5, 1864.

Exhibit No. 4.

SETTLEMENT WITH THE LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

NASHVILLE, TENNESSEE, *November* 18, 1865.

To the General Assembly of the State of Tennessee:

In obedience to a resolution of your honorable body, entitled " a resolution to appoint commissioners to settle with the Louisville and Nashville Railroad Company," adopted May 5, 1865, the undersigned, as commissioners on behalf of the State, have met the Hon. James Guthrie, president, and Mr. Willis Ranney, secretary of said company, at the State Capitol, for the purpose contemplated in the resolution.

The memorial upon which said resolution is founded, and which, it is said, sets forth the various matters of settlement, has not been furnished to the commissioners, but has been mislaid in one house or the other of the legislature. But from a statement of its contents by Mr. Guthrie, your commissioners are of opinion that the only matter legitimately referred to them, is the indebtedness of said company to the State on account of the aid furnished the company in the shape of bonds loaned to them, and the interest thereon.

It appears from the books of the secretary of State, that said company have, at different times, received the sum of five hundred and sixty thousand five hundred dollars ($560,500) of the bonds of the State, in aid of the construction of their road, and the bridge across the Cumberland, at Nashville. It appears from the books of the comptroller, that the interest on these bonds has been paid up to July 1, 1861. The interest accruing since that time amounts to one hundred and forty-seven thousand one hundred and thirty-one dollars and twenty-five cents ($147,131.25), making the entire indebtedness of said railroad company to the State, seven hundred and seven thousand six hundred and thirty-one dollars and twenty-five cents ($707,631.25). The principal, Messrs. Guthrie and Ranney, on behalf of the said company, proposed to pay over in straight six per cent. coupon bonds of the State, and the interest in coupons of the State now due.

Believing it to be manifestly for the interest of the State to call in this large installment of its indebtedness, and believing, moreover, that the company had a right, under the law regulating the sinking fund, to pay off its entire indebtedness in the bonds of the State, your commissioners accepted the proposal, and executed to the commissioners, on behalf of the company, the following receipt, a duplicate of which is retained in the office of the comptroller:

NASHVILLE, TENNESSEE, *November* 17, 1865.

We, the undersigned, commissioners appointed by the General Assembly of the State of Tennessee, by joint resolution adopted May 5, 1865. "to meet and make settlement, on behalf of the State, with the Louisville and Nashville Railroad Company," have this day met and settled with the Hon. James Guthrie, president, and Willis Ranney, secretary of said company, and have received from them five hundred and fifty-one coupon bonds of the State, for one thousand dollars each ($551,000), nine thousand five hundred dollars ($9,500) in coupons of the bonds of the State now due; also, one hundred and forty-seven thousand one hundred and thirty-one dollars and twenty-five cents ($147,131,-25) in coupons of the bonds of the State, in payment of interest due from said company, accruing since July 1, 1861; making in all, seven hundred and seven thousand six hundred and thirty-one dollars and twenty-five cents, being the total indebtedness of said company to the State of Tennessee, on account of the bonds of the State, received in aid of the construction of said road, and the bridge across the Cumberland River.

Given under our hands, this 17th of November, 1865.

A. J. FLETCHER, *Sec'y of State.*
S. W. HATCHELL, *Comptroller.*
T. H. CALDWELL, *Att'y-General,*
A. W. HAWKINS, *Com. of Roads.*

The bonds and coupons mentioned in said receipt are deposited with the comptroller of the State, and a list of the numbers and amount of the coupons is filed in the office of the secretary of State.

From the statement of Mr. Guthrie, your commissioners are of opinion that the other matters contained in the memorial, grow out of the consolidation of said road with the Edgefield and Kentucky road, by the acts of December 1, 1855, and December 3, 1859, and should be settled by the two companies, unless the latter road should fall permanently into the hands of the State. At any rate, the adjustment of these matters has been waived for the present by consent.

The last installment of interest, amounting to sixteen thousand eight hundred and fifteen dollars ($16,815), was paid by said company into the Bank of Tennessee, on the 9th day of May, 1861, as appears from their receipt. This was two days after the adoption of the Secession Ordinance; but as the law required the payment to be made to the bank, and as your commissioners can not see that the status of the bank was changed at that early day, they consider the payment legal. The fact that the fund was lost by the bad faith of the bank, does not, in the opinion of your commissioners, furnish any just or legal grounds for recourse on the company.

Respectfully submitted.

A. J. FLETCHER, *Sec'y of State.*
S. W. HATCHELL, *Comptroller.*
T. H. CALDWELL, *Att'y-General.*
A. W. HAWKINS, *Com. of Roads.*

Exhibit No. 5.

STATEMENT SHOWING AMOUNT OF BONDS ISSUED BY THE STATE OF TENNESSEE IN AID OF DIFFERENT RAILROAD COMPANIES, AND WHAT DISPOSITION HAS BEEN MADE OF THE INDEBTEDNESS TO THE STATE IN CASE OF THE SEVERAL RAILROADS.

Sold by Commissioners.

EDGEFIELD AND KENTUCKY R. R.—		
Bonds issued (including $200,000 to E. H. N.)	$1,380,000 00	
Interest funded, January 1, 1866	231,812 00	
Interest unpaid, July 1, 1870	365,220 00	
U. S. claims assumed	130,804 58—	$2,107,836 58
Sold August 26, 1861, for		900,000 00
CIN'TI, CUMB. GAP AND CHARLESTON R. R.—		
Bonds issued	1,373,000 00	
Interest unpaid	242,068 12—	1,615,068 12
Sold October 16, 1871, for		300,000 00
KNOXVILLE AND KENTUCKY R. R.—		
Bonds issued	2,350,000 00	
Interest unpaid	394,380 00—	2,744,380 00
Sold October 10, 1871, for		350,000 00
MCMINNVILLE AND MANCHESTER R. R.—		
Bonds issued	772,000 00	
Interest unpaid	294,037 00—	1,066,037 00
Sold August 15, 1871, for		300,000 00
NASHVILLE AND NORTHWESTERN R. R.—		
Bonds issued	3,222,000 00	
Interest funded, January 1866	396,475 00—	3,618,475 00
Balance interest unpaid, July, 1870		817,725 00
Sold October, 1871, for	2,400,000 00	
ROGERSVILLE AND JEFFERSON R. R.—		
Bonds issued	385,000 00	
Interest funded, January, 1866	38,160 00—	423,160 00
Interest unpaid, July, 1870		96,158 00
Sold March, 1872, for	23,000 00	
WINCHESTER AND ALABAMA R. R.—		
Bonds issued	1,289,000 00	
Interest funded, January, 1866	143,259 00—	1,432,259 00
Interest unpaid, July, 1870		315,309 33
Sold September, 1871	300,000 00	

KNOXVILLE AND CHARLESTON R. R.—		
Bonds issued......................	710,000 00	
Interest unpaid....................	85,200 00	
Sold March 22. 1872, for.......		105,000 00
EAST TENN. AND WEST'N N. CAR. R. R.—		
Bonds issued......................	400,000 00	
Interest unpaid	36,000 00	
Sold November, 1871, for......		20,000 00
MEMPHIS, CLARKSV'LE AND LOUISV. R. R.—		
Bonds issued......................	1,582,000 00	
Interest funded, January. 1866......	312,600 00—	1,894,600 00
Interest unpaid....................		613,986 00
U. S. Claims assumed........		380,756 00
Sold September 28, 1871, for....	1,700,000 00	
TENNESSEE AND PACIFIC R. R.—		
Bonds issued	1,165,000 00	
Interest unpaid, July, 1870.	71,080 00	
Sold August 8, 1872, for.......		300,000 00

P. S.—

Total bonds issued to railroads...	$29,252,000 00
Of these bonds there have been canceled, about....	15,800,000 00
Leaving of the original issuance outstanding, about.	14,250,000 00

Roads which have Liquidated their Indebtedness.

East Tennessee and Virginia R. R.—		
Bonds issued	$2,202,000 00	
Interest funded, 1866	250,038 55	
	2,452,038 55	
Less sinking fund paid	3,000 00—	$2,449,038 55
East Tennessee and Georgia R. R.—		
Bonds issued	1,614,000 00	
Interest funded, January, 1866	180,277 50	
	1,794,277 50	
Less amount sinking fund paid	125,000 00	1,669,277 50
Total indebtedness of the two above roads, paid August 1, 1870, by East Tennessee, Virginia and Georgia R. R. Co. (consolidated)		$4,118,316 05
Central Southern R. R.—		
Bonds issued	596,000 00	
Interest funded, January, 1866	128,160 00—	724,160 00
Tennessee and Alabama R. R.—		
Bonds issued	1,069,000 00	
Interest funded, January, 1866	225,016 00—	1,294,016 00
Nashville and Decatur R. R.—		
Bonds issued		350,000 00
Total paid by the Nashville and Decatur R. R. Co., March, 1871		2,368,176 00
Memphis and Charleston R. R.—		
Bonds issued	1,700,000 00	
Interest funded, January, 1866	185,387 45—	1,885,387 45
Less amount paid on sinking fund		213,471 20
Balance paid, July 25, 1877		1,671,916 25
Memphis and Ohio R. R.—		
Bonds issued	2,001,000 00	
Interest funded, January, 1866	395,110 00	
Paid, May 25, 1871	2,396,110 00	
Mississippi and Tennessee R. R.—		
Bonds issued	398,000 00	
Interest funded, January, 1866	22,800 00—	420,800 00
Less amount paid on sinking fund		121,000 00
Balance paid, January 16, 1878		299,800 00

Mobile and Ohio R. R.—

Bonds issued	1,296,000 00
Interest funded, January, 1866	388,800 00
Paid January 1, 1872	1,684,800 00

Mississippi Cent. and Tennessee R. R.—

Bonds issued	1,124,000 00
Interest funded, January, 1866	75,180 00
Paid, December 1, 1877	1,199,180 00

Nashville and Chattanooga R. R.—

Bonds issued	395,000 00
By sinking fund paid	30,835 00
Balance paid, January 1, 1874	364,165 00

Recapitulation.

Defaulting Railroads Sold by the State Commissioners.—

Bonds issued	14,628,000 00	
Interest funded, January, 1866	1,122,306 00	
Interest unpaid, July, 1870	3,331,163 12	
U. S. Government claims assumed	511,560 00	19,593,029 12
Amount realized by sale of the above roads (sales bearing date July, 1870).		6,698,000 00

Roads which have Settled their Indebtedness.—

Bonds issued	12,742,000 00
Interest funded, January, 1866	1,850,768 00
Sinking fund paid	493,306 00
Unaccounted for	1,255,700 00

State of Tennessee,
Comptroller's Office,

Comptroller's Seal.

I, Jas. L. Gaines, Comptroller of the Treasury of the State of Tennessee, do hereby certify that the foregoing is a correct statement as shown by the records and books in this office.

Witness my official seal and signature, at Nashville, this 8th day of April, 1878.

JAMES L. GAINES,
Comptroller.

Name of Railroads that retired their Debts to the State of Tennessee, and Amount of Same, viz.:

East Tennessee, Virginia & Georgia	$ 4,117,000 00
Nashville & Decatur	2,700,000 00
Memphis & Charleston (of which $213,471.00 was paid as sinking fund)	1,875,000 00
Memphis & Ohio	2,396,000 00
Mississippi & Tennessee (of which $120,000.00 was paid as sinking fund)	420.800 00
Mobile & Ohio	1,684,800 00
Mississippi Central	1,199,000 00
Nashville & Chattanooga (of which $20,800.00 was paid as sinking fund)	395,000 00
	$14,787,600 00

Name of Railroads sold out, and Amounts brought by each.

Edgefield & Kentucky	$ 900,000 00
Cincinnati, Cumberland Gap & Charleston	300,000 00
Knoxville & Kentucky	350,000 00
McMinnville & Manchester	300,000 00
Winchester & Alabama	300,000 00
Rogersville & Jefferson	23,000 00
Nashville & Northwestern	2,400,000 00
Knoxville & Charleston	105,000 00
East Tennessee and Western North Carolina	20,000 00
Memphis, Charleston & Louisville	1,700,000 00
Tennessee & Pacific	300,000 00
	$6,698,000 00
	*21,485,600 00
Amount of bonded debt of the State, estimated January 1, 1870, about	40,000,000 00
	$18,514,400 00

---

*To which is to be added $707,000.00, Louisville & Nashville R. R., which was paid before the date at which the above debt of the State was estimated; hence, it is not deducted, making a total of $21,485,600.00.

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE,

[*In Equity.*]

CALVIN AMORY STEVENS, on behalf of the Holders of Internal Improvement Bonds of Tennessee, issued to the Nashville and Northwestern Railroad Company,

vs.

THE NASHVILLE AND NORTHWESTERN RAILROAD COMPANY.

The answer of Calvin Amory Stevens to the cross-bill filed by Charles Burckhardt and others, admitted as defendants by stipulation :

This complainant, respondent to the cross-bill which he has consented that Charles Burckhardt and others might file subject to conditions specified in a certain stipulation, for answer to said cross-bill, or so much and such parts thereof as he is advised it is material for him to answer unto, but without waiving any benefit or right of exception thereto that can or may be had to the same on account of the errors, uncertainties and imperfections therein contained, admits the existence of the several statutes, public documents and records and private writings set out or referred to in the cross-bill, but for greater certainty as to the contents thereof, prays leave to refer to the said documents upon the trial.

Respondent denies each and every allegation in the said cross-bill with actual knowledge of which he is charged; and as to the other matters of fact alleged affirmatively in the said cross-bill, except in the particulars above admitted, and respondent has no knowledge or information, and therefore demands strict proof of the same.

And the complainant further says that the telegraphic letter of December 11, 1877, addressed by him to the Governor of Tennessee, and laid before its legislature, was written for his signature by Richard T. Wilson, President of the Memphis and Charleston Railroad Company, and by him procured to be signed by the said complainant, and by said Wilson sent to said Governor at a time when this complainant was wholly ignorant of the substitutions now claimed to have been effected, and by which it is alleged that the liens upon the railroads of the defendant company and other companies in the State of Tennessee have been satisfied, and that said telegraphic letter relates to bonds of the State of Tennessee, then held by this complainant, of which only a very small minority in amount were secured or are now claimed to have been secured by any lien whatever.

Respondent is advised that he need not answer or controvert in this pleading the various conclusions of law and presumptions set forth in the cross-bill, but that the same are best answered by the language of the Statutes of Tennessee.

Wherefore this respondent prays to be hence dismissed with his reasonable costs.

E. L. ANDREWS,
GEORGE HOADLY,
Solicitors and of Counsel for Complainant.

UNITED STATES OF AMERICA, } ss:
Southern District of New York.

On this 8th day of March, 1880, before me personally appeared Calvin Amory Stevens, who being duly sworn, says that the matter and things stated of his own knowledge are true, and so far as stated on information and belief, he believes it to be true.

W. H. DeLANCEY,
Notary Public Westchester County.
Acting in New York County under and by virtue of Chapter 807 of the Laws of 1873 of the State of New York.

Replication of Charles Buckhardt and others. 1

U. S. Circuit Court,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

[*In Equity.*]

2

Calvin Amory Stevens, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to The Nashville and Northwestern Railroad Company,

vs.

The Nashville and Northwestern Railroad Company and The Nashville, Chattanooga and St. Louis Railroad Company. 3

The replicants, saving and reserving to themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, say that they will aver and 4
prove their said cross-bill to be true, certain and

5 sufficient in law to be answered unto, and that the
said answer of the said defendant is uncertain, un-
true and insufficient to be replied unto by these re-
pliants without this, that any other matter or thing
whatsoever in the said answer contained, material
or effectual in the law to be replied unto, con-
fessed and avoided, traversed or denied, is true, all
which matters and things these repliants are and
will be ready to aver and prove as this Honorable
Court shall direct, and humbly pray as in and by
6 their said cross-bill they have already prayed.

MATTHEWS, RAMSEY & MATTHEWS,
Solicitors for Defendant.

7

8

IN THE

UNITED STATES CIRCUIT COURT,

For the Middle District of Tennessee.

IN EQUITY.

Calvin Amory Stevens, Eugene Kelly, John T. Terry and Peter Geddes, on behalf of holders of Internal Improvement Bonds of the State of Tennessee issued to railroads,

vs.

The Louisville & Nashville Railroad Company,

and

Fifteen other suits on behalf of bondholders, against Fifteen other Railroad Companies.

SOME OF THESE SUITS ARE PENDING IN THE EASTERN, SOME IN THE MIDDLE, AND OTHERS IN THE WESTERN DISTRICT OF TENNESSEE.

OPINION BY S. L. WITHEY, DISTRICT JUDGE, WESTERN DISTRICT OF MICHIGAN.

SEPTEMBER 25th, 1880.

These are suits in equity pending in the Circuit Courts of the United States for the Districts of Tennessee, brought by complainants on behalf of holders of Internal Improvement Bonds of the State of Tennessee against various railroad companies to whom the bonds were issued, to aid in the construction of their several lines of railroads, and against all other persons interested.

They were argued together in April and May last at Nashville.

The object of the suits is to have a lien in favor of the bondholders declared and established upon the railroads of the several defendant companies, and a Receiver appointed for the collection of the accrued and accruing interest, the interest having been in default since July 1st, 1875. The principal is not due.

The plaintiffs' contention is, briefly, that the Acts passed by the Legislature of the State of Tennessee in 1852, to grant aid to the railroad companies by a loan to them of the bonds of the State, imposed a lien upon the railroads, as security to the holder of the bonds and to the State—payment to the holder would operate as indemnity to the State. Inasmuch as the State and the companies are in default in the payment of the interest since July, 1875, the bondholders by these suits seek to have a lien in their favor established upon the roads.

Statement.

The General Assembly of the State of Tennessee passed, February 11, 1852, an Act known as the "Internal Improvement Act of the State of Tennessee," extending aid to railroad companies by a loan of State bonds, the proceeds to be used in ironing and equipping the roads. Prior to the time of passing the Act, there had been issued State bonds for various purposes, of which above three and a half million dollars were outstanding. The State of Tennessee was now in good credit, her six per cent. bonds brought a premium in the money markets of the world, as did also, subsequently, her bonds issued to the defendant railroad companies under the Act in question, and Acts amendatory thereof, which bonds are the subject of controversy in these suits. The scheme of internal improvement now adopted was to issue to each Company six per cent. bonds to the amount of eight thousand dollars a mile in installments—afterwards extended to ten thousand dollars,—the first when a section of thirty miles of road was completed ready for the ties, and the subsequent installments upon completion of each additional section of twenty miles; afterwards changed to ten miles. The bonds are transferable by delivery, run not less than thirty nor more than forty years from the respective dates of issue. The interest matures semiannually, and, with the principal, is payable in New York. They were paid to the railroad company and old in open market without endorsement or guarantee. The State was invested by the terms of the statute with a lien upon each section of the company's road as soon as the bonds for that section were issued, and upon final completion of the road such lien was to attach to the entire road and its equipments. The company was to be incapable of creating any lien conflicting with that in favor of the State.

The amount of the lien claimed by complainants in behalf of such bondholders upon all the railroads is about fifteen million dollars. The litigation, however, affects the holders of between thirty and thirty-five million dollars of other mortgage bonds secured upon these roads and issued under authority of the General Assembly conferred in 1869–70 to enable the aided companies to repay to the State the bonds loaned to them. The holders of the last-mentioned bonds claim to have a first lien upon the roads, and appear in these suits, with the defendant companies, to contest the lien claimed by complainants and their associate bondholders.

The interest of the State debt was in default from July, 1861, to 1866, during the Civil War, when the price of her bonds had depreciated in value to less than fifty per cent. of their face. The storm of war left the railroads of the State without money, credit or rolling stock, and their roads and bridges going to decay. The first Legislature of Tennessee, after the storm had passed, assembled in 1865, when the State and the railroad companies were alike in a condition of bankruptcy. Provision was now made by the State to fund all her over-due bonds and interest coupons outstanding into new bonds. In 1866 and 1867 the State issued additional bonds to some of these railroad companies to aid them to build bridges and repair their roads, the State reserving a lien and imposing terms and conditions like those in the act of 1852, but somewhat modified.

In 1869–70 none of the principal of the railroad aid bonds issued under the acts of 1852, or acts amendatory thereof, had matured, but now the General Assembly of the State, to enable the respective companies to repay any part of the principal of their indebtedness for bonds loaned to them, passed an act permitting payment in any of the outstanding bonds of the State.

To obtain money to purchase State bonds for surrender, they were severally authorized to issue mortgage bonds upon their respective roads and equipments corresponding in denomination with the State aid bonds, and deposit them with the Comptroller of the State, to be by him delivered to the company or its agent whenever, and as Tennessee State bonds were by the company surrendered and cancelled. These mortgage bonds were by law declared to be a first lien on the road and equipments of the company issuing them, and as evidence to the purchaser the Comptroller was required to and did certify upon each bond that it was "secured by first mortgage."

Many of the companies availed themselves of this legislation, and under its sanction and authority an aggregate of between thirty and forty million dollars of such mortgage bonds were by the companies issued and sold, and are now outstanding.

Other railroad companies did not avail themselves of the provisions of the law of 1869-70. They continued to be in default as to the payment of interest, and as to payment annually into the sinking fund required by statute. Proceedings by the State were therefore commenced in the State Court of Chancery, and decrees of foreclosure and sale obtained.

At the sale the State was purchaser. These foreclosed roads were subsequently sold by the State and new companies organized. Payment by the purchaser was made to the State in any outstanding Tennessee State bonds at their face value, and the purchaser was invested with all the right and title of the State.

The State, as before stated, had funded her over-due bonds and interest coupons into a new bond under the law of 1865, and in February, 1870, another act was passed to again fund unpaid interest that had accrued on the public debt, together with the floating debt of the State, and all that might become due up to 1874. Holders of Tennessee bonds, including holders of internal improvement bonds issued to railroad companies, generally accepted the provisions thus made for retiring over-due interest coupons, as they had done under the act of 1865. The State of Tennessee however, again defaulted in her interest January, 1, 1875, and subsequently openly repudiated her bonded debt, for the payment of which the faith and credit of the State were solemnly pledged.

The Statute.

The Internal Improvement Act of February 11, 1852, will alone be referred to, as it contains all the provisions necessary to be considered. The lien is declared by the third section which is as follows:

> "That so soon as the bonds of the State shall have been issued for the first section of the road as aforesaid, they shall constitute a lien upon said section so prepared as aforesaid, including the road-bed, right of way, grading, bridges, and masonry, upon all the stock subscribed for in said company, and upon said iron rails, chairs, spikes and equipments, when purchased and delivered, and the State of Tennessee, upon the issuance of said bonds, and by virtue of the same, shall be invested with the said lien or mortgage without a deed from the company, for the payment by said company of said bonds, with the interest thereon as the same becomes due."

The requirement, by section five, as to the payment of interest is, that fifteen days before it falls due the company shall deposit in the bank of Tennessee—the State's fiscal agent—

> "an amount sufficient to pay such interest, including exchange and necessary commissions, or satisfactory evidence that said interest has been paid or provided for, and if said company fail to deposit said interest as aforesaid, or furnish the evidence as aforesaid, it shall be the duty of the Comptroller to report that fact to the Governor,"

who is immediately to put the road into the hands of a Receiver to operate it in behalf of the State until the default is made good, and then to surrender the road to the company.

By the section,

"The Comptroller is authorized, and it is made his duty upon his warrant to draw from the treasury any sum of money necessary to meet the interest on such bonds as may not be provided for by the company as provided for in in this act, and the Comptroller shall report thereof to the General Assembly from time to time."

The requirement as to the payment by the company of the principal of the bonds by section seven is:

"That at the end of five years after the completion of said road, said company shall set apart one per centum per annum upon the amount of bonds issued to the company, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the company shall pay into the treasury of the State, after assigning them to the Governor, and for which the Governor shall give said company a receipt, and as between the State and said company, the bonds so paid in shall be a credit on the bonds issued to the company. And bonds so paid in and the interest accruing thereon, from time to time, shall be held and used by the State asa Sinking Fund for the payment of the bonds issued to the company, and should said company repurchase any of the bonds issued to it under the provisions of this act, they shall be credited as aforesaid and cancelled. And should said company fail to comply with the provisions of this section, it shall be proceeded against, as provided in the fifth section of this act."

viz, as in case of failure to meet installments of interest.

It will be noticed that as these bonds were to be issued in installments at different periods, they would therefore fall due at different times.

The sixth section provides:

"That if said company shall fail or refuse to pay any of said bonds when they fall due, it shall be the duty of the Governor to notify the Attorney General of the district in which is situated the place of business of said company, of the fact; and thereupon, said Attorney General shall forthwith file a bill against said company in the name of the State of Tennessee, in the Chancery or Circuit Court of the county in which is situated said place of business, setting forth the facts, and thereupon said Court shall make all such orders and decrees in said cause as may be deemed necessary by the Court, to receive the payment of said bonds, with the interest thereon, and to indemnify the State of Tennessee against any loss on account of the issuance of said bonds, by ordering the said railroad to be placed in the hands of a receiver, ordering the sale of said road, and all the property and assets attached thereto or belonging to said company, or in such other manner as the Court may deem best for the interest of the State."

By section twelve,

"the State of Tennessee expressly reserves the right to enact by the Legislature thereof, hereafter, all such laws as may be deemed necessary to protect the interest of the State, and to secure the State against any loss in consequence of the issuance of bonds under the provisions of this act; but in such manner as not to impair the vested rights of the stockholders of the companies."

What the parties claim.

Complainants contend that the statutory lien is to be regarded as an instrument of security taken for the benefit of the bondholders; or more fully stated, that the legislation and action of the State under it were effectual to fix upon the railroads respectively a lien not merely for the indemnity of the State of Tennessee, but also to secure the payment of its bonds to their holders; that the State became trustee of this lien for the benefit of the holder of the bonds, which lien inured to their benefit as *costius que trusent* of the State, by force of the express contract to that effect in the law creating the security, as well as by necessary legal implication from the relations of the parties, which no subsequent dealings between the railroad companies and the State could discharge. **Again it is said:**

"the first or primary object of the act was to compel each aided company to pay its debt directly to its true creditor, the lender on the bonds. This was effected by the usual and proper process, a lien pure and simple for the payment of the bonds upon the estate of each aided company enforcible in equity in case of default."

On the other hand defendants' answers state the opposing view thus:

"that the said statutory mortgage was taken by the State in its own behalf and for its own benefit, and not as trustee for its bondholders, and that said statutory mortgage was conditioned solely for the payment by the Company to the State of the company's indebtedness to the State for the bonds loaned to it, and in respect of both principal and interest such payment was conditioned to be made by the company to the State before the corresponding amount of interest or principal would become due or payable by the State to the holders of the State bonds; * * * that by the statute two entirely independent and distinct debts were created, one from the State to the bondholders upon its bonds payable to bearer, resting upon the faith and credit of the State, the other an indebtedness from the railroad company to the State for the amount of the State bonds loaned to it, and that the statutory mortgage was given to secure this latter direct obligation from the railroad company to the State, with which the bondholders had no connection or concern."

It is further said that whether the engagement of the company was to pay to the State or to holders of the bonds is not important, and that if under the terms of the act it shall be held that the companies were to make payment to the bondholders, such payment was to be merely in relief of the State from the ultimate performance of its obligation—but all the while the obligation of the State remained—was to be in exoneration of the State but did not modify its undertaking on the bond and created no privity between the bondholders and the company. That such an undertaking by the company would be to indemnify the State by payment of the bond in its stead, and that the obligation was to the State alone, and one in which no one else had or was intended to have any legal or equitable interest, much less any direct participation and right of intervention or control. That the relation between the railroad company and the holder of State bonds was that merely of vendor and purchaser of negotiable securities, passing by delivery and without endorsement and therefore created no relation between them of debtor and creditor.

Opinion.

I cannot refrain from expressing personally and officially my acknowledgements for the complete and exhaustive arguments by learned and eminent counsel which distinguished the hearing and submission of these important cases. I approach their consideration with all the aid which the most consummate and elaborate arguments can afford. The opinion will not extend over all the debated ground.

Have the holders of internal improvement bonds, loaned by the State of Tennessee to a railroad company, under the act in question, any enforcible right by contract or otherwise in the statutory lien that is reserved to the State of Tennessee for the payment of the principal and interest of the bonds as they matured? Section three provides:

> "That so soon as the bonds of the State shall have been issued for the first section of the road as aforesaid, they shall constitute a lien upon said section * * * and the State of Tennessee, upon the issuance of said bonds, and by virtue of the same, shall be invested with said lien * * * for the payment by said company of said bonds, with the interest as the same becomes due."

This section of the statute relates only to the first division of thirty miles, but the lien there declared is by another part of the act applied and extended to each additional section of twenty miles as fast as completed, and finally to the entire road as security

"for the payment of all bonds issued to the company" (Sec. 4).

The lien upon the property of the company was effected by virtue of the statute upon the issue of the bonds by the State and their acceptance by the company. Unless an intention of the Legislature to secure the purchaser of the bonds can be implied from the act and the dealing of the parties, the claim of complainants to the relief asked in these suits rests upon a mere equity. There is no denial that it was the State of Tennessee which was invested with the lien, but it is said that she occupies the position of a surety holding security for the payment of the debt, which security the creditor—the bondholder—can upon default of the principal debtor—the railroad company—avail himself in equity; that default by the company and by the State in the payment of the interest having occurred, the State becomes and is a trustee of this lien for the benefit of the bondholder. It was the State and the railroad company that dealt together in this matter. The State dictated the terms upon which it would grant aid, and the company accepted those terms without reference to what the purchaser of the bonds would say or claim. The bonds were loaned by the State and passed over to the company to be sold for money to aid or accommodate the company. The bonds were accepted by the company upon the understanding and agreement: 1. That the state was invested with a lien upon the company's railroad and property to secure "the payment by said company of said bonds, with the interest thereon as the same becomes due." 2. That the interest should be paid by the company to the financial agent of the State at least fifteen days before it should become due, or satisfactory evidence be produced that it had been paid or provided for; and 3, that the principal of the bonds should be paid by the company by means of a sinking fund in the State Treasury, created by the purchase and deposit therein of Tennessee interest bearing bonds, supposed to be adequate for the purpose of enabling the State to meet its bonds at maturity.

There is nothing in any of these stipulations out of which the relation of the State to the bondholder is changed from that of a principal debtor to a surety. Nor does it appear how the company becomes debtor to the bondholder in any degree whatever. There is no express promise on its part to the bondholder, nor is any contract relation implied between him and the company. Section three contains no language importing such promise. It declares merely that the State of Tennessee shall be invested with a lien for the payment of the bonds by the company. The State imposes the lien if its aid is accepted, and as a condition of the grant. The language may imply a promise by the company accepting the aid to pay the State, but there is no obligation of the company to pay the bondholder, resulting either from positive law or from contract express or implied.

The lien was clearly "reserved in favor of the State." It was the State of Tennessee that upon the issuance of the bonds was invested with the lien or mortgage without deed. No other lien could have priority over or come in conflict with the lien of the State. The company was to deposit the interest money and exchange with the State's fiscal agent at least fifteen days before it became due, or satisfactory evidence that the interest had been paid or provided. All the suits and proceedings under the Act are given as remedies exclusively to the State. The State might have a decree and sell the road for non-payment of any bond. The bond was made by the State for the accommodation of the railroad company and was sold in open market, without any promise by the company, other than what is implied to the State by accepting the benefit of the Act.

There is no express declaration of trust on the part of the State. It is sought to raise a trust out of the language of the Act, and the principle is invoked applicable to a security given by a debtor to his surety conditioned that it shall be void if the mortgagor pays the debt on which the mortgagee is surety, viz: that in such case the mortgage will be held both as an indemnity to the surety and as a security for the debt; the surety being regarded in equity as trustee for the benefit of the creditor and as having no right to discharge or defeat the trust, unless it be to a purchaser for a valuable consideration without notice.

The rule is not questioned. But it is not conceived that this rule would control the express terms of a mortgage or other instrument of security, nor render wholly nugatory the effect of an express reservation of a right of disposition of the mortgaged property by the mortgagee as is provided in the statute under consideration.

It is not within the province of equity to import conditions into the mortgage. The conditions of this statutory lien were, that the company should deposit the interest money and exchange with the State's fiscal agent or furnish evidence of prior payment, and should also pay into the treasury the means of providing a Sinking Fund for the ultimate payment of the bonds. This dealing was to be with the State—as to the payment of the principal it must have been—as to the payment of interest it was optional with the company—and there being no express covenant by the company a compliance with the conditions named in the mortgage would discharge the lien.

We do not overlook a claim made by one of complainants' counsel, that the intention of the Legislature is to be ascertained by the language of the statute declaring the lien, but we think the statute must be construed together, and that the requirements put upon the mortgagor—the conditions of his mortgage—when read in connection with the declaration, many times repeated in the statute, that the lien is the lien of the State, should have great weight in determining the legislative intention. The meaning of the legislation is to be declared from the words and subject matter of the statute. It is the scope and meaning of the whole enactment, rather than the literalism of words and phrases that are to govern; the signification of the entire Act and not a single clause determines the intention of the law maker. Thus section six, considered with other provisions of the Act, is important as reserving to the State the right through proceedings in Court to sell the road, thereby discharging it from the lien imposed by the statute.

The fact that the State might discharge the lien in such way imports that there was no intention of the law makers to give a beneficial interest in the security to any one but the State. This view applies with peculiar force where the holder of the security is a State not amenable to the ordinary process of Courts.

This view of the effect of section six upon the construction as to legislative intent is not weakened but fortified by section fourteen, which declares that

"in the event any of the roads shall be sold under the provisions of the Act, it shall be the duty of the

Governor to appoint an agent for the State to attend the sale, and, if necessary to protect the interests of the State, buy in the road in the name of the State; and in case the State shall be the purchaser, the Governor shall appoint a Receiver who shall take possession of the road and property, and use the same as provided for in the fifth section of this Act, and said Receiver shall settle his accounts semi-annually with the Comptroller until the next meeting of the General Assembly."

This section imports three things at least as to a sale: 1, a third person may be a purchaser; 2, the State may be the purchaser; 3, that the purchaser obtains a title discharged of the lien. It is manifest that if a stranger buys he takes title freed from all liens imposed by the act upon the property, and there is nothing in the language of the section or in the act to indicate that the State, becoming purchaser, does not take the property equally free from such lien.

The Receiver appointed by the Governor is to take possession of the road and "use the same as provided for in the fifth section," that is, in like manner, viz.: "run the same and manage the entire road." This he is to do until the next meeting of the General Assembly, when by clear implication the future management or disposition of the road is left to legislative action.

The contract between the State and the company is that the State shall have a lien "for the payment by said company of said bonds," but it is nowhere required by the State, and therefore not assented to by the company, that the latter shall pay *to the bondholder*. It was urged that this language imports payment by the company to the only person then entitled to ask or enforce it. The language must, however, be understood to relate to other parts of the statute which prescribes specifically the manner of payment by the company, viz.: payment annually into the State Treasury of a sum to be employed as a sinking fund.

It is made optional, by section five, with the company, whether it will deposit the interest as it becomes due with the fiscal agent of the State or pay the same to the bondholder, and by section seven the principal was to be paid by setting apart annually after five years from the completion of the road a certain per centum of the amount of bonds issued to the company, invested in any bonds of the State and assigned to the Governor. This sinking fund provision would, within the period which the bonds had to run, place in the treasury of the State an amount sufficient to nearly or quite enable the State to pay the bonds. The Tennessee bonds were generally six per cent., and funded in those the time required would be thirty-three years and two months.

There is nothing in the act to indicate that after the company has complied with these provisions as to interest and sinking fund, and has thus provided the State with the means of payment, that the company was also required to pay to the bondholders. Certainly this was not the condition of the security, as the only way in which a default could occur was by failure of the company to provide for payment of the interest and principal in those specified ways.

But it is said the Sinking Fund was not to be commenced until five years after the particular road should be completed, and that that event might not take place at all or not till half or more of the time which the bonds had to run had expired, so that the period might be wholly inadequate in which to provide a sufficient Sinking Fund for paying the bonds when due, and that this indicates that the lien was not intended as security merely for payment by the company to the State by means of a Sinking Fund in the manner provided. A statute must be construed from the standpoint, the circumstances and surroundings of the lawmakers when it was enacted; and it would be unjust and repugnant to reason and common experience to assume that the Legislature passed the act in the expectation that the roads would never be finished or would not be completed within a reasonable time. Besides section twelve reserved to the State ample powers to make such modifications in relation to the time for the Sinking Fund to commence and the per cent. annually to be paid into that fund as would fully protect the interests of the State against delay on the part of the railroad company.

Whatever might be said in regard to the evidence, adduced in these cases, of contemporaneous construction through the utterances of State officials in public documents, the action of any department of the State government or otherwise, there is, in the judgment of the court, nothing to change the views which have been expressed.

Chamberlain *v.* St. Paul and Sioux City R. R. Co., 92 U. S., 299, was decided upon a statute and upon facts similar to those in the present cases and is very instructive. The State of Minnesota by a constitutional amendment provided for an issue of its bonds as a loan to the Southern Minnesota Railroad Company, and required such company to convey the lands in question "in trust for the better security of the Treasury of the State from loss on said bonds," and further provided that if the borrowing company should make default in payment of either the principal or interest of the bonds issued by the State, the Governor should proceed to sell the lands held in trust by the State. The company accordingly executed a trust conveyance of the lands to the State, conditioned for the payment of the principal and interest of the bonds issued to that company. The company made default in the payment of interest. The State foreclosed and became the purchaser of the lands which she granted to another corporation, the defendant in the Chamberlain suit. Chamberlain was holder of some of the State bonds, the payment of which was secured by the trust conveyance, and sought to have a lien upon the land declared in his favor.

In the cases at bar, as in that case, the State was primarily liable to the holder of the bonds. In the cases at bar, as in that case, the State reserved to itself the right of foreclosure and disposition of the property. In deciding that case, Justice Field after stating the position of the complainant, viz.: "that the interest which the State took under the trust deed and mortgage was only the right to hold them as security against loss upon its bonds, * * * that this interest was not changed by foreclosure of the mortgage and by purchase of the property by the State," uses the following language:

> "The State was primarily liable to the bondholders; and it was only between her and the company that the relation of principal and surety existed.
>
> It may be doubted whether the bondholders could call upon the company in any event. The endorsement made by the President simply transferred the bonds; it was not the act of the company. Be that as it may, whatever right the plaintiff had to compel the application of the lands received by the State to the payment of the bonds held by him, it was one resting in equity only. It was not a legal right arising out of any positive law or any agreement of the parties. It did not create any lien which attached to and followed the property. It was a right to be enforced if at all only by a Court of Chancery against the surety. But the State being the surety here, it could not be enforced at all, and, not being a specific lien upon the property, cannot be enforced against the State grantees."

This was said to be the law of that case, even if the bondholders could have called upon the company for payment. But laying this feature aside, the analogies are as before stated, and whatever right the plaintiffs have to claim benefit from the security rests here as in that case as a mere equity; there was no legal right because the law did not impose one, and the company made no promise to the bondholders. Such equity created no lien which followed the property; the liability of the State was to the bondholder. She held no relation as surety to him; as in the Chamberlain case, it was only as between her and the company that in any possible view the State could be regarded as surety, and this view would make it necessary to treat the company as the principal debtor to the bondholder, whereas the company was not the principal debtor, nor indeed a debtor to the bondholder in any degree.

The reasoning in the case of Hand *v.* R. R. Co., in the Supreme Court of South Carolina—manuscript—referred to on the argument, cannot all be adopted as applicable to these cases if the conclusions might be.

It is not upon its fact authority. The railroad company made its own bonds and the State guaranteed their payment to the holder by endorsement. The State was secured by a lien upon the company's road, reserved by the statute which authorized the guarantee. As a surety the State assumed contract obligations to the creditor—the bondholder. If a creditor has a right to claim the benefit of security given by the debtor to his surety for the latter's indemnity, it does not follow that the right exists where the principal debtor takes the security from the accommodatee and where the security holder holds no other relation to the creditor than that of debtor, and the giver of the security is neither a debtor or surety to the creditor.

It becomes unnecessary to further consider the effect of the reservation of power to the State under section twelve. The court has already stated that such reserved power is ample to authorize a modification of the sinking fund provisions, as has been done by increasing the amount to be paid annually into the Sinking Fund, and changing the time for such payment to commence.

It follows that by this judgment neither the foreclosed or the non-foreclosed roads are subject to any lien in favor of the holders of internal improvement bonds issued by the State of Tennessee, under the acts passed by that State, and to which reference has been made.

Other topics presented in the arguments need not be considered.

A decree will be entered in each case, dismissing the bill of complaint therein, with costs to defendants, and it is directed that such decrees be drawn and presented for approval.

Decree. 1

Circuit Court of the United States.

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE,

[*In Equity.*] 2

CALVIN AMORY STEVENS, who sues on behalf of himself and other holders of Tennessee State bonds issued to the Nashville & Northwestern Railroad Company, 3

vs.

THE NASHVILLE & CHATTANOOGA & ST. LOUIS RAILWAY COMPANY AND OTHERS.

This cause came on to be heard upon the bill of complaint, the answers thereto, the answer and cross bill of the defendants, Charles Burckhardt, Sophie Mylius Von Miller, Charles Diggelman and Louise Iselin, the answer of the complainant there- 4

5 to, the replications and the proofs, and was argued by counsel for the respective parties.

And the Court now being fully advised thereon finds:

First. The equity of the cause to be with the defendants.

Second.—That the complainant is not entitled to the relief prayed for.

Third.—That the deeds of trust and mortgages
6 set forth in the answer and cross-bill of the said
Charles Burckhardt, Sophie Mylius Von Miller,
Charles Diggelman and Louise Iselin, made to the
said Iselin and the said Wilson and the said Stevenson,
are in respect to the claim of the complainant
and of all other holders of the bonds of the State
of Tennessee originally loaned by said State to the
Nashville and Northwestern Railroad Company,
the best and only liens and incumbrances on said
property therein described; and,

7

Fourth.—That in respect to the equity of the holders of the bonds thereby intended to be secured, the lien originally reserved by the State of Tennessee on account of its bonds loaned to the Nashville and Northwestern Railroad Company has been effectually discharged and released.

It is therefore ordered, adjudged and decreed,
that the bill of complaint of the complainant
be, and the same is hereby dismissed, and that the
8 said Charles Burckhardt, Sophie Mylius Von Miller,
Charles Diggelman and Louise Iselin, and all
other holders of the bonds secured by the said deeds
of trust or mortgages, be forever quieted in their
said rights and title under the same against the
claim of the complainant and all other holders of
the bonds of the State of Tennessee, originally
issued to the Nashville and Northwestern Railroad

Company, and that they be and are hereby perpetually enjoined from hereafter, contrary to this decree, setting up their claim aforesaid. 9

And it is further ordered, adjudged and decreed, that the said complainant pay to the defendants the costs of this suit, to be taxed, and that defendants have execution therefor.

And thereupon came the complainants at the same time, and prayed an appeal from the foregoing decree, which appeal was allowed, and the amount of the penalty of the bond to be given by them is fixed 10
at one thousand dollars.

Settled and approved,
this 30th day of October, A.D., 1880.

S. L. WITHEY.
District Judge,
West. Mich.

11

12

Supersedeas Bond. 1

U. S. Circuit Court,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE,

CALVIN AMORY STEVENS and JOHN T. TERRY, on behalf of the holders of internal improvement bonds of Tennessee issued to the NASHVILLE AND NORTH WESTERN RAILROAD COMPANY, 2

vs. — In Equity.

THE NASHVILLE AND NORTH WESTERN RAILROAD COMPANY and the NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILROAD COMPANY. 3

Know all men by these presents, that we, Calvin Amory Stevens and John T. Terry, resident of the city and State of New York, and Eugene Kelly, Peter Geddes, Eugene Plunkett and Solon Humphreys, residents of the same place, are jointly and 4 severally held and firmly bound unto the Nashville and North Western Railroad Company and the Nashville, Chattanooga and St. Louis Railway Com-

5 pany, in the sum of one thousand dollars each, to be paid to the said The Nashville and North Western Railroad Company and the Nashville, Chattanooga and St. Louis Railway Company and their successors, for which payments well and truly to be made, each of us doth hereby bind himself, his heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated the 29th
day of December, in the year of
6 our Lord one thousand eight hundred and eighty.

Whereas, lately at a regular term of the Circuit Court of the United States in and for the Middle District of Tennessee, held by consent of all parties to the record, at the City of Nashville in said State, a final decree was rendered in the above-entitled cause, dismissing the complainant's bill out of the said Court.

7 And whereas an appeal from said decree to the Supreme Court of the United States was prayed on behalf of complainants in said suit, namely: Calvin Amory Stevens and John T. Terry, which appeal was granted, and the order granting the same was filed with the clerk of said Circuit Court.

Now the condition of the above obligation is such that if the said Calvin Amory Stevens and John T. Terry shall prosecute the said plea to effect, and answer all damages and costs if they fail to make the said appeal good, then the above obligation to be
8 void, else to remain in full force and virtue.

CALVIN AMORY STEVENS, [L. S.]
EUGENE KELLY, [L. S.]
P. GEDDES, [L. S.]
JOHN T. TERRY, [L. S.]
EUGENE PLUNKETT, [L. S.]
SOLON HUMPHREYS. [L. S.]

UNITED STATES OF AMERICA, } ss: 9
Southern District of New York. }

On this 29th day of December, 1880, before me personally appeared Calvin Amory Stevens, Eugene Kelly Peter Geddes, John T. Terry, Eugene Plunkett and Solon Humphreys, to me known and known to be the same persons described in and who executed the foregoing bond, and severally acknowledged to me that they executed the same.

[L.S.] WILLIAM H. DELANCEY,
Notary Public, 10
Westchester and N. Y. Cos.

UNITED STATES OF AMERICA, } ss:
Southern District of New York. }

CALVIN AMORY STEVENS, being duly sworn and examined, deposes and says: I am one of the bondsmen named in the foregoing bond, and I am worth the sum of two thousand dollars over and above all my debts and liabilities and property exempt by law from execution. 11

CALVIN AMORY STEVENS.

Sworn to before me, this 29th }
day of December, 1880. }

[L.S.] WILLIAM H. DELANCEY,
Notary Public,
Westchester and N. Y. Cos.

12

13 UNITED STATES OF AMERICA, }
Southern District of New York. } ss:

EUGENE KELLY, being duly sworn and examined, deposes and says: I am one of the bondsmen named in the foregoing bond, and I am worth the sum of two thousand dollars over and above all my debts and liabilities and property exempt by law from execution.

EUGENE KELLY.

14 Sworn to before me, this 29th }
day of December, 1880. }

[L.S.] WILLIAM H. DELANCEY,
Notary Public,
Westchester and N. Y. Cos.

UNITED STATES OF AMERICA, }
Southern District of New York. } ss:

PETER GEDDES, being duly sworn and examined,
15 deposes and says: I am one of the bondsmen named in the foregoing bond, and am worth the sum of two thousand dollars over and above all my debts and liabilities and property exempt by law from execution.

P. GEDDES.

Sworn to before me, this 29th }
day of December, 1880. }

[L.S.] WILLIAM H. DELANCEY,
16 *Notary Public,*
Westchester and N. Y. Cos.

UNITED STATES OF AMERICA, }
Southern District of New York. } ss:

JOHN T. TERRY, being duly sworn and examined, deposes and says: I am one of the bondsmen named in the foregoing bond, and I am worth the sum of two thousand dollars over and above all my 17 debts and liabilities and property exempt by law from execution.

JOHN T. TERRY.

Sworn to before me, this 29th day of December, 1880.

[L.S.] WILLIAM H. DELANCEY,
Notary Public,
Westchester and N. Y. Cos.

18

UNITED STATES OF AMERICA,
Southern District of New York. } ss:

EUGENE PLUNKETT, being duly sworn and examined, deposes and says: I am one of the bondsmen named in the foregoing bond, and I am worth the sum of two thousand dollars over and above all my debts and liabilities and property exempt by law from execution.

EUGENE PLUNKETT.

Sworn to before me, this 29th day of December, 1880. 19

[L.S.] WILLIAM H. DELANCEY,
Notary Public,
Westchester and N. Y. Cos.

UNITED STATES OF AMERICA,
Southern District of New York, } ss.:

SOLON HUMPHREYS, being duly sworn and examined, deposes and says: I am one of the bondsmen named in the foregoing bond, and I am worth the sum of two thousand dollars over and above all my 20 debts and liabilities, and property exempt by law from execution.

SOLON HUMPHREYS.

Sworn to before me, this 29th day of December, 1880.

WILLIAM H. DELANCEY,
[L. S.] *Notary Public*,
Westchester and N. Y. Co.

21 UNITED STATES OF AMERICA, } ss.:
Southern District of New York, }

WILLIAM H. FARRELL, being duly sworn, deposes and says: I am well acquainted with Eugene Plunkett, one of the sureties named in the foregoing bond, and know of my own knowledge that he is worth the sum of two thousand dollars over and above all his debts and liabilities and property exempt by law from execution.

WM. H. FARRELL.

22 Sworn to before me this 30th }
day of December, 1880. }

WILLIAM H. DELANCEY,
[L.S.] *Notary Public*,
Westchester and N. Y. Co.

UNITED STATES OF AMERICA, } ss.:
Southern District of New York, }

S. NEWTON SMITH, being duly sworn, deposes and says: I am well acquainted with Solon Humphreys, 23 one of the sureties named in the foregoing bond, and know of my own knowledge that he is worth the sum of two thousand dollars over and above all his debts and liabilities and property exempt by law from execution.

S. NEWTON SMITH.

Sworn to before me, this 30th }
day of December, 1880. }

WILLIAM H. DELANCEY,
24 [L.S.] *Notary Public*,
Westchester and N. Y. Cos.

By the Honorable JOHN BAXTER, United States Judge in and for the Sixth Judicial Circuit, Middle District of Tennessee:

I hereby approve the foregoing bond as to the form and manner of its execution, and as to the amount thereof, and the sufficiency of the sureties, and direct that the same shall operate as a supersedeas. 25

Dated January 6th, 1881.

JNO. BAXTER,
United States Judge.

26

27

28

CAPTION. 1

UNITED STATES OF AMERICA,
Southern District of New York, } ss:
State of New York, County of New York,

Be it remembered that on the 5th, 8th, 9th, 10th, 11th and 12th days of July, in the year of our Lord one thousand eight hundred and seventy-nine, I, WILLIAM H. DE LANCEY, a notary public in and for the State and county aforesaid, duly commissioned and qualified under the laws of the United States to take depositions for use in the Circuit Courts of the 2 United States, did call and cause to be and personally appear before me at my office, No. 52 Broadway, in the city of New York, in the Southern District of New York in the State and County aforesaid, CALVIN AMORY STEVENS to testify and the truth to say on the part and behalf of the complainant in a certain suit or matter of controversy now depending and undetermined in the Circuit Court of the United States, for the Middle District of Tennessee, at Nashville, in the district aforesaid wherein Calvin Amory Stevens, on 3 behalf of the holders of Internal Improvement bonds of Tennessee, issued to the Louisville & Nashville Railroad Company, is complainant, and the Louisville, Nashville & Great Southern Railroad Company is defendant.

And also in a certain other suit or matter at controversy, now depending and undetermined in said Circuit Court, wherein Calvin Amory Stevens, on behalf of the holders of Internal Improvement bonds of Tennessee, issued to the Central Southern Railroad Company, is 4 complainant, and the Nashville & Decatur Railroad Company *et al.* are defendants.

5 And also in a certain other suit or matter at controversy, now depending and undetermined in said Circuit Court, wherein Calvin Amory Stevens, on behalf of the holders of Internal Improvement bonds of Tennessee, issued to the Tennessee & Alabama Railroad Company, is complainant, and the Nashville & Decatur Railroad Company *et al.* are defendants.

And the said Calvin Amory Stevens, being about the age of thirty-four years, and having been by me first cautioned and sworn to testify the truth, the whole truth 6 and nothing but the truth, in the several matters of controversy aforesaid, I did carefully examine the said Calvin Amory Stevens, and he did thereupon depose, testify and say as follows, viz :

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

7 [*In Equity.*]

CALVIN AMORY STEVENS, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the LOUISVILLE & NASHVILLE RAILROAD COMPANY,

versus

8 THE LOUISVILLE, NASHVILLE & GREAT SOUTHERN RAILROAD COMPANY *et al.*

CALVIN AMORY STEVENS, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the CENTRAL SOUTHERN RAILROAD COMPANY, 9

versus

THE NASHVILLE & DECATUR RAILROAD COMPANY *et al.* 10

CALVIN AMORY STEVENS, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the TENNESSEE & ALABAMA RAILROAD COMPANY, 11

versus

THE NASHVILLE & DECATUR RAILROAD COMPANY *et al.*

52 Broadway,
NEW YORK, July 5th, 1879.

Hearing to take the deposition of Calvin A. Stevens, pursuant to notice. 12

Present—MR. ANDREWS for complainant.
MR. BAXTER for defendants.

It is consented and agreed by both parties that the deposition of the witness, Calvin A. Stevens, shall be taken but once, and is to apply to each of the above-entitled actions and be considered as offered as testimony in each.

13 Calvin A. Stevens, being first duly cautioned and sworn, in each of the above-entitled actions, deposes and says:

Hearing adjourned by consent to July 8th, 1879, at 10 A. M.

July 8th, 1879, 10 A. M.

Direct examination by Complainant's Counsel:

1 Q. Are you the plaintiff in these causes?

A. I am.

14 2 Q. Are you the owner and holder of Tennessee bonds?

A. I am.

3 Q. Will you produce before the Commissioner and the counsel here, for their inspection, Tennessee bonds of which you are the owner and holder?

A. Yes, sir; there they are.

(Bonds produced.)

15 4 Q. Please furnish the Commissioner with a copy of the bonds or leave the same with the Commissioner to enable him to take a copy?

A. I will.

(Bonds are left with Commissioner for the purpose of having copies taken to be certified by him.)

5 Q. Are there overdue coupons on these bonds?

A. There are.

16 (Counsel for defendants object to Questions 4 and 5, because, *first*, complainant must file his original bonds, and have them marked, filed and returned as a part of this deposition, the filing of copies not being admissible under the practice; and when said bonds are filed they will be the best evidence as to whether there are any past due coupons on them or not. Defendants will

move to suppress this deposition if the bonds are not filed as above required.) 17

6 Q. Are the holders of Tennessee bonds very numerous?

A. They are, sir.

7 Q. Where do they reside, so far as you know?

A. In many different places.

(Counsel for complainant requests the Commissioner to certify in his return the amount of the bonds now produced before him with the 18 amount of overdue coupons on each bond.)

(Counsel for defendants excepts to any such certificate being made, because, if the bonds are filed as they should be, they will be the best evidence of the facts asked for to be certified.)

Commissioner's Certificates to Bonds.

In the case of 19

Calvin Amory Stevens, on behalf of the holders of Tennessee Bonds issued to the LOUISVILLE & NASHVILLE Railroad Company,

versus

The LOUISVILLE, NASHVILLE and GREAT SOUTHERN Railroad Company *et al.* 20

IN THE UNITED STATES CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE.

I hereby certify that there was produced before me du-

21 ring the taking of the deposition in this cause fourteen (14) Tennessee bonds, each bond being for the principal sum of one thousand dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof. A true and exact copy of one of said bonds is as follows :

Complainant's Exhibit No. 1.

July 8th, 1879.—W. H. D. L., *Notary Public.*

22 M. UNITED STATES OF AMERICA, M.

No. 6,532. B.

STATE OF TENNESSEE.

Know all men by these presents, that the State of Tennessee acknowledges to owe to or order one thousand dollars, lawful money of the United States, which sum the said State promises to pay in the City of New York on the 1st day of January, 1892, with interest at the rate of six per cent. per
23 annum, payable semi-annually, according to the tenor, and upon the presentation of the coupons hereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an Act of the General Assembly of said State, passed at its session of 1851-2.

[L. S.] In witness whereof, I, Isham G. Harris, Governor of said State, have hereunto signed
24 my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said state to be hereto affixed, at Nashville, this 1st day of January, 1858.

ISHAM G. HARRIS,
Governor.

WM. N. McBURTON,
Secretary of State.

$1,000. $1,000.

The other (13) of said bonds are of like tenor in all 25
respects with the foregoing, except that they differ in their numbers, being numbered as follows:

6,593,
6,284,
6,587,
6,621,
6,580,
6,630,
6,643, 26
6,430,
6,570,
6,407,
9,439,
6,581,
6,303.

All of said bonds are dated on the first day of January, 1858, except No. 9,439, which is dated January
1st, 1859, and contains at the end of the body of the 27
bond after the words "session of 1851-2" the words "and acts amendatory thereto," and is signed by J. E. R. Ray, Secretary of State.

All of said bonds have thirty-three (33) coupons attached thereto, except the following numbers of bonds:

6,570, which has 31 coupons,
6,417, " " 31 "
6,581, " " 28 " 28
6,303, " " 30 "

The last coupon attached to each of said bonds being the coupon first falling due, is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

29 **$30.** **$30.**

The Treasurer of the State of Tennessee will pay the bearer thirty dollars, in the City of New York, on the first day of January, 1876, being the semi-annual interest then falling due on bond No. 6,532.

$30 **$30.**

J. T. DUNLAP,
Comptroller.

30 There are eight overdue coupons upon ten of said bonds, the first coupon thereof having fallen due on the first day of January, 1876. The other seven of said overdue coupons fell due at intervals of six months from the due date of the coupon above-mentioned, namely:

On the 1st of July, 1876,
On the 1st of January, 1877,
On the 1st of July, 1877,
31 On the 1st of January, 1878.
On the 1st of July, 1878,
On the 1st of January, 1879,
On the 1st of July, 1879.

Upon the other four bonds there are overdue coupons as follows:

On 6,570, six overdue coupons,
" 6,407, six " "
32 " 6,581, three " "
" 6,303, five " "

That is to say:

On 6,570, the last attached coupon fell due January, 1877
" 6,407, " " " " January, 1877
" 6,581, " " " " July, 1878
" 6,303, " " " " July, 1877

All of the aforesaid bonds, with the coupons attached thereto, were left by the witness Calvin Amory Stevens for inspection by me and the solicitor for the defendant then and there present, and were inspected by me and by him. 33

[L.S.] WILLIAM H. DE LANCEY,
Notary Public.

34

In the case of

CALVIN AMORY STEVENS, on behalf of the holders of Tennessee bonds issued to the CENTRAL SOUTHERN RAILROAD COMPANY,

versus

THE NASHVILLE & DECATUR RAILROAD COMPANY *et al.* 35

IN THE UNITED STATES CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE.

I hereby certify that there was produced before me during the taking of the deposition in this cause seven (7) Tennessee bonds, each bond being for the principal sum of one thousand dollars, and bearing on its face the impression of the Great Seal of the State of Tennessee. 36
A true and exact copy of one of said bonds is as follows:

37 **Complainant's Exhibit No. 2.**

July 8th, 1879.—W. H. D. L., *Notary Public.*

M UNITED STATES OF AMERICA. M

No. 7,910. B.

STATE OF TENNESSEE.

Know all men by these presents, That the State of Tennessee acknowledges to owe to
or order, one thousand dollars, lawful money of the
38 United States, which sum the said State promises to pay in the city of New York, on the 1st day of January, 1898, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor and upon the presentation of the coupons hereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance, and under the provisions of an Act of the General Assembly of said State, passed at its session of 1851-2, and acts amendatory
39 thereto.

In witness whereof, I, Isham G. Harris, Governor of said State, have hereunto signed my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State be hereto affixed at Nashville, this 1st day of Janunry, 1858.

[L.S.]

ISHAM G. HARRIS,
Governor.

40 J. E. R. RAY,
Secretary of State.

1,000. 1,000.

All of the other six (6) of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows:

8,024.
7,925.

8,012. 41
7,942.
7,913.
8,061.

All of said bonds have thirty-three coupons attached thereto. The last coupon attached to each of said bonds, being the coupon first falling due, is in all respects like the following true and exact copy thereof :

$30 $30 42

The Treasurer of the State of Tennessee will pay the bearer thirty dollars, in the city of New York, on the first day of January, 1876, being the semi-annual interest then falling due on bond.

No. 7,910.

J. T. DUNLAP,
Comptroller.

$30. $30.

There are eight (8) overdue coupons upon each of said bonds, the first coupon thereon having fallen due on the first day of January, 1876. The other seven (7) of said overdue coupons fell due at intervals of six months from the due date of the coupon above set forth, namely : 43

On the first of July, 1876.
" " January, 1877.
" " July, 1877.
" " January, 1878.
" " July, 1878.
" " January, 1879. 44
" " July, 1879.

All of the aforesaid bonds with the coupons attached thereto, were left by the witness Calvin Amory Stevens for inspection by me and the solicitor for the defendants then and there present, and were inspected by me and by him.

WILLIAM H. DE LANCEY,
[L. S.] *Notary Public.*

45 In the case of

CALVIN AMORY STEVENS, on behalf
of the holders of Tennessee bonds
issued to the TENNESSEE and
ALABAMA RAILROAD COMPANY,

versus

46 THE NASHVILLE and DECATUR
RAILROAD COMPANY, *et al.*

IN THE UNITED STATES CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE.

I hereby certify that there was produced before me, during the taking of the deposition in this cause, twelve (12) Tennessee bonds, each bond being for the
47 principal sum of one thousand dollars ($1,000), and bearing on its face the impression of the Great Seal of the State of Tennessee. A true and exact copy of one of said bonds is as follows:

Complainant's Exhibit No. 3.

July 8th, 1879.—W. H. D. L., *Notary Public.*

M. UNITED STATES OF AMERICA. M.

No. 1,053. B.

48

STATE OF TENNESSEE.

Know all men by these presents, that the State of Tennessee acknowledges to owe to or order one thousand dollars, lawful money of the United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1892, with interest, at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon

the presentation of the coupons hereto attached. For 49
the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance, and under the provisions of an Act of the General Assembly of said State, passed at its session of 1851–2.

In witness whereof, I, ANDREW JOHNSON,
Governor of said State, have hereunto
signed my name, and caused the same
[L.S.] to be countersigned by the Secretary 50
of said State, and the Great Seal of
said State to be hereto affixed, at
Nashville, this 1st day of January,
1854.

ANDREW JOHNSON,
Governor.

W. B. A. RANNEY,
Comptroller.

$1,000. $1,000.

51

The other eleven (11) of said bonds are of like tenor in all respects, with the foregoing, except that they differ in their numbers, being numbered as follows:

8,151,
6,406,
6,918,
1,027,
7,028,
6,350, 52
5,970,
6,383,
6,962,
6,957,
6,269,

All of said bonds are dated on the first day of January, 1858, except numbers 1,027 and 1,053, which are

53 dated on the first day of January, 1854. Number 8,151 contains at the end of the body of the bond, after "Session of 1851-2," the words "and acts amendatory thereto."

The signatures to the said twelve (12) bonds are as follows:

Numbers 1,053 and 1,027 are signed by Andrew Johnson, Governor, and W B. A. Ranney, Secretary of State.

54 Numbers 8,151, 6,918, 7,028, 6,962 and 6,957 are signed by Isham G. Harris, Governor, and J. E. R. Ray, Secretary of State.

Numbers 6,406, 6,350, 5,973, 6,383 and 6,269 are signed by Isham G. Harris, Governor, and W. N. McBurton, Secretary of State.

All of said bonds have thirty-three (33) coupons attached thereto, except number 6,350, which has but thirty.

55 The last coupon attached to each of said bonds, being the coupon first falling due, is in all respects, except as hereafter stated, like the following true and exact copy thereof.

$30. $30.

The Treasurer of the State of Tennessee will pay the bearer thirty dollars, in the City of New York, on the first day of January, 1876, being the semi-annual interest then falling due on Bond No. 1,053.

56 $30. $30.

ARTHUR R. CROZIER,
Comptroller.

There are eight (8) overdue coupons upon eleven (11) of said bonds, the first coupon thereof having fallen due on the first day of January, 1876. The other seven (7) of said overdue coupons fell due at intervals of six months from the due date of the coupon above set forth, namely:

On the first of July, 1876. 57
" " January, 1877.
" " July, 1877.
" " January, 1878.
" " July, 1878.
" " January, 1879.
" " July, 1879.

Upon number 6,350 there are five (5) overdue coupons, the first one falling due on the first day of July, 1877.

All of the aforesaid bonds, with the coupons attached thereto, were left by the witness, Calvin Amory Stevens, for inspection by me, and the solicitor for the defendants then and there present, and were inspected by me and by him. 58

[L.S.] WILLIAM H. DE LANCEY,
Notary Public.

Complainant closes his direct examination.

59

Cross-examination by Mr. BAXTER:

8×Q. Please state your age, residence and occupation? How long have you resided there and how long you have followed that occupation?

A. I was born August 2d, 1845; I reside in New York; I could not tell how long without referring to dates I have not here; I am not in active business.

(Defendants' counsel asks for a continuance of this deposition until the witness can get the dates from which he can tell how long he has resided in New York City; and without waiving his right for such continuance, in order to save time proceeds to put other questions in cross-examination.) 60

9×Q. Are you the absolute, sole and unconditional owner of each and every bond upon which you have brought suit against the Louisville & Nashville or the

61 Nashville & Decatur Railroad Companies? If not,
give the name and residence of each and every person
who has any interest in any of said bonds, whether as
partner, part owner, pledgee or otherwise?

A. I am the absolute owner; I am the absolute, sole and unconditional owner; no one has any interest in said bonds as partner, part owner, pledgee or otherwise.

10×Q. Have not some of said bonds, and which of
them, been loaned to you by their real owners to enable
62 you to make a case against each of said Companies? If
so, which of said bonds have been so loaned, and by
whom?

A. There have not been any of said bonds loaned to me for such purpose; I represent only my own bonds.

11×Q. State when, where, how and from whom you
obtained each of said bonds; if you say you purchased
any of them, state what you paid for each of
them, and give the names and residences of those
from whom you purchased each of them; and if you
63 say they were purchased on the stock board give the
names of all the brokers or agents through whom you
made such purchases?

(Complainant's counsel objects to that portion of the question which interrogates as to what complainant paid for his bonds as immaterial and incompetent testimony.)

A. I could not answer that question so specifically
64 without dates, which I have not here; nor have I any
positive means of telling from what particular parties
the bonds came; what bonds I bought I bought from
different parties; I bought from brokers, H. T. Morgan
for one, No. 35 William street; John Buckley—I can't
tell his place now; the bonds I bought from him were
bought a number of years ago; he was then in Pine
street; John B. Manning was another; I have bought
bonds from other parties at auction; I cannot tell all of

whomI have bought Tennessee bonds from during the past eight years, the eight years may be more or less. 65

(Counsel for complainant objects to the whole of cross question No. 11 as immaterial and irrelevant, and on the ground that it makes no difference from whom the witness bought his bonds and that it is sufficient to establish his case if he is now the owner and holder of the bonds; also moves to strike out the the question and answer for the same reason.) 66

(The defendants' counsel applies for continuance of taking of this deposition until the complainant can get the dates, so that he can answer this question specifically, and will move to suppress this deposition unless this cross-question and cross-question 8 are fully and specifically answered as to dates and other matters inquired of before this deposition is closed.) 67

12×Q. When, where and from whom did you purchase bond 6,303 letter B, which you claim to be a bond of Tennessee?

A. I could not tell you as I never kept so close an identification of the bonds.

13×Q. Did you inherit or purchase said bonds?

A. I could not answer that question either.

14×Q. Did you come into the possession of it within the last three years?

A. I could not answer that question, either. 68

15×Q. How then do you know that the bond belongs to you at all?

A. Because it is honestly in my possession and honestly owned by me.

16×Q. How do you know that you honestly own the bond, if you cannot tell whether you purchased or inherited it, nor when, where, how or from whom you got it, or what you paid for it?

69 (Counsel for complainant objects as to the price of purchase.)

A. For the very good reason that I have no Tennesse, bonds in my possession, except what I have inherited or purchased.

17×Q. When, where, from whom, how and at what price did you obtain the paper which is claimed to be bond number 6,593, letter B?

A. I apply the same answer in the case of that bond
70 as I did to the other.

(Defendants' counsel excepts to this as being no answer to question put to the witness.)

(Complainants' counsel objects to cross-question No. 17 as immaterial.)

18×Q. When, where, from whom, how and at what price did you obtain the paper which you claim to be bond number 6284 letter B?

71 A. I cannot answer that question more specifically than I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

19×Q. When, where, how and from whom, and at what price did you obtain the paper which you claim to be bond number 6,587, letter B?

A. I give the same answer as I did in the case of the
72 other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

(Complainant's counsel asks defendants' solicitor to state what he expects to prove by this line of examination. Defendants' counsel replies that he expects to prove the facts inquired about in the question, either by this witness or by others, and is laying grounds to contradict witness if he can do so.) 73

(Complainant's counsel moves to strike out the cross-examination which relates in any manner to the identity and proof of the bonds, on the ground that it is admitted by the answer that the corporations-defendant, the Louisville and Nashville Railroad Company, and the Central Southern Railroad Company, and the Tennessee and Alabama Railroad Company received bonds of 74 the State of Tennessee from that State, and negotiated them, and that they are bound to know the bonds which they sold.)

20×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,532, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.) 75

21×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,570, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.) 76

22×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,621, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

77 23×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,430, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

24×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be 78 bond number 6,407, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

25×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,580, letter B?

79 A. I give the same answer as I did in the case of the other bonds.

(Defendants'. counsel excepts to this answer as wholly insufficient.)

26×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,581, letter B?

A. I give the same answer as I did in the case of the 80 other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

27×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,630, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.) 81

28×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,643, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

82

29×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 9,439, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

30×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 7,910, letter B? 83

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

31×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 7,913, letter B? 84

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

32×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 7,935, letter B?

85 A. I give the same answer as I did in the case of the other bonds.

(Defendant's counsel excepts to this answer as wholly insufficient.)

33×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 7,942, letter B?
A. I give the same answer as I did in the case of the other bonds.

86

(Defendants' counsel excepts to this answer as wholly iusufficient.)

34× Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 8,012, letter B?
A. I give the same answer as I did in the case of the other bonds?

87 (Defendant's counsel excepts to thisanswer as wholly insufficient.)

35×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 8,024, letter B?
A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

88

36×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 8,061, letter B?
A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

37×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 1,027, letter B? 89

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

38× Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 1,052, letter B? 90

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

39×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 5,973, letter B?

A. I give the same answer as I did in the case of the other bonds. 91

(Defendants' counsel excepts to this answer as wholly insufficient.)

40×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,269, letter B?

A. I give the same answer as I did in the case of the other bonds.

92

(Defendants' counsel excepts to this answer as wholly insufficient.)

41×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,350, letter B?

A. I give the same answer as I did in the case of the other bonds.

93 (Defendants' counsel excepts to this answer as wholly insufficient.)

42×Q When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,383, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

94 43×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,406, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

44×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be
95 bond number 6,918, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

45×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,957, letter B?

A. I give the same answer as I did in the case of the
96 other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.

46×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 6,962, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.) 97

47×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 7,028, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

98

48×Q. When, where, how, from whom, and at what price did you obtain the paper which you claim to be bond number 8,151, letter B?

A. I give the same answer as I did in the case of the other bonds.

(Defendants' counsel excepts to this answer as wholly insufficient.)

49×Q. Have you sued upon all the bonds which you own which were loaned to said Louisville and Nashville, and Nashville and Decatur Railroad Companies, or do you own other of such bonds upon which you have not sued? 99

(Counsel for complainant objects to the question as immaterial and irrelevant.)

A. I own other of such bonds upon which I have not sued.

50×Q. Did you own such other bonds at the time these suits were brought? 100

(Same objection.)

A. Yes, sir.

51×Q. How many of said bonds did you at that time own against each of said railroads upon which you have not sued—give their numbers and letters?

(Same objection.)

101 A. I owned as many as was stated in the bills filed.

52×Q. Do I understand that you then sued upon only half of the bonds which you then held?

(Same objection.)

A. I did not wish to give that impression; you were mistaken.

53×Q. To illustrate my meaning, you state in your bill against the Louisville & Nashville Railroad that you were the owner and holder of fourteen bonds
102 loaned to that company; and I understood your bill to be filed to enforce your lien for those bonds, and therefore, I regard them as the bonds sued for in that case; I understand you in answer to cross-question 51, to say that you owned as many of said bonds upon which you had not sued, and therefore, I understood that you had only sued upon half of the bonds you owned; if I am wrong please show me how I am wrong?

A. I did not intend to give any such impression; my meaning was that I owned the fourteen bonds re-
103 ferred to in the bill and still own them.

54×Q. Then, do I now understand, that at the commencement of these suits you did not own any bonds that were loaned to either of said companies except such bonds as you mentioned, and sued upon in the bills filed by you?

A. None that I was aware of.

55×Q. Have you bought since the commencement of these litigations or otherwise acquired any bonds loaned to either of said companies; if so how many,
104 from whom, when, and at what price?

(Objected to as immaterial and irrelevant.)

A. I have bought other bonds but I could not state the other particulars.

56×Q. Did you buy said bonds through brokers or agents or in person, and if through brokers or agents, who were they?

(Same objection.) 105

A. I have bought bonds since of J. B. Manning, and I think of other parties also, but I am not positive as to the date in reference to the other parties.

57×Q. Please state the names of the other parties referred to in your last answer?

(Same objection.)

A. The parties I had in mind were H. T. Morgan & Co., and the Real Estate Exchange. 106

58×Q. Are they the only parties that you had in your mind, if not who else passed through your mind?

(Objected to for reasons stated as objections to former questions, and for a further reason that the inquiry is directed to matters which have transpired since the commencement of the litigation.)

A. I may have bought some through Newton Duel. 107

59×Q. Are you not quite a large operator or investor in stocks and bonds; what amount of such securities do you own?

(Complainant's counsel objects to the latter part of the question as irrelevant.)

A. I frequently invest in bonds and real estate but seldom, if ever, in stocks; I refuse to answer the latter part of the question as an improper inquiry into my private affairs. 108

(Defendants' counsel notifies complainants counsel that he will move to suppress this deposition because of the witness's refusal to answer the last branch of the question.)

(Complainant's counsel insists upon refusal of witness to answer because the inquiry is directed to the complainant's ownership of bonds in gen-

109 eral, and is not confined to the character of bonds in issue in these causes, and therefore involves what seems to be an unnecessary inquiry in regard to his personal affairs.)

(Defendants' counsel disclaims any intention of unnecessarily inquiring into complainant's private affairs, but asks the question with a view of introducing the next two succeeding questions of the cross-examination.)

110 60×Q. Do you not, either in person or through some clerk, bookkeeper, broker or agent, keep some books, papers or other memoranda to show your purchases and sales of bonds or stocks, and especially of bonds of the State of Tennessee loaned to the railroads involved in these suits.?

(Objected to as immaterial.)

A. I keep accounts in respect to Tennessee bonds,
111 but not accurate in all particulars; I mean by that not sufficiently accurate to enable me to answer all the questions asked.

61×Q. Do you keep that account in person or through someone else?

(Same objection.)

A. I keep it in person.

62×Q. Is it contained in a book or set of books, or is it contained in separate paper or memoranda?

112 A. Books and, possibly, memoranda.

63×Q. You will please present to the Commissioner, for his inspection and that of counsel, to enable true copies thereof to be taken and filed with this deposition: all such parts of said book or books, and all such memoranda or papers, as refers to your purchases or other acquisition of bonds of the State of Tennessee loaned to either of the railroads involved in these suits.

(Objected to as immaterial, as too broad and general, and the production of these documents is objected to, unless the Court, upon the hearing of the causes, should deem these matters relevant and material.) 113

A. I will produce the papers so far as I can, provided the Court says it is necessary.

64×Q. Do you then decline to produce them now or during the taking of this deposition?

114

(Complainant's counsel objects to the latter part of the question relating to his probable course during the taking of this deposition.)

A. I do not object, but I shall do as my counsel advises.

(Complainant's counsel offers, if defendant's counsel will indicate just what he wants, what entries he refers to and what particulars in regard to purchased Tennessee bonds issued to these railroads, he will endeavor to comply with the question.) 115

(Defendants' counsel replies that the books, papers or memoranda not being in his possession, and never having been seen by him, he cannot give any more specific designations of the parts thereof which he wishes to be produced than he has already done in cross-question number 63, and his object in calling for said books or memoranda is to enable him to cross-examine the complainant, and he will therefore move to suppress this deposition, unless such production and inspection is allowed in time to enable him to continue said cross-examination.) 116

65×Q. Have you not brought suits in the Federal Courts of Tennessee against several other railroads be-

117 sides the Louisville and Nashville and the Nashville and Decatur railroad companies; if so, what other companies have you sued, and upon how many bonds against each ?

(Objected to as immaterial and irrelevant to the issues in these cases, and as secondary proof, and all answer thereto objected to until the Court can pass upon the propriety of the question.)

118

A. I object to answer as advised by my counsel.

(Defendants' counsel will move to suppress this deposition, because of the refusal of the witness to answer question.)

66×Q. Are you the absolute, sole and unconditional owner of each and every bond upon which you have sued the railroad companies of Tennessee other than the Louisville & Nashville and Nashville & Decatur 119 railroad companies; if not, give the names and residences of each and every person who has any interest in any of said bonds whether as partner, part owner, pledgee or otherwise; state if some of said bonds have not been loaned to you for the purpose of making out a case against said companies, and state if some other person or persons have not some lien upon said bonds or some of them; if so, specify which of said bonds and give the names of such persons ?

120 (Objected to as immaterial and irrelevant.)

A. I am the absolute, sole and unconditional owner of each and every bond sued upon; no bonds have been loaned to me for the purposes stated in the question.

67×Q. State when, where, how and from whom you obtained each of the bonds upon which you have sued the railroad companies of Tennessee other than the Louisville and Nashville and Nashville and Decatur;

if you say you purchased any of them state when you 121 bought each of them, what you gave for them and the name or residence of the broker through whom you made each and every purchase?

(Objected to as immaterial and irrelevant, and any answer objected to until the Court can pass upon admissibility of the question, and further objected to because it does not tend to prove any of the issues in the causes, and counsel for defendants is requested to indicate what he proposes to develop by the question.) 122

(Defendants' counsel proposes to show that the three cases in which these depositions are now being taken are but part of set of cases brought in the Federal Courts of Tennessee against the railroads of that State by a combination of bondholders with headquarters in New York, whose real object is to bull this class of Tennessee bonds. That the litigation has not been institut- 123 ed and has not been maintained in good faith for the purpose specified in the pleadings, but complainant has been selected as the figurehead of that organization, and has been provided with bonds by those who are in combination with him to set on foot not only the litigations in these three causes, but in the others, with a view of forcing the railroads of Tennessee to compromise debts which they regard themselves as having already paid the State, and one of the objects of 124 this cross-examination will be to show that such combination exists.)

(Counsel for complainant will waive any objection to any question directed to prove the offer just made by defendant.)

A. I object to answer only so far as my counsel wishes.

125 (Defendants' counsel will move to suppress the deposition for the refusal of the witness to answer this question.)

68×Q. Have you sold any Tennessee State bonds within the last nine years; if so, why did you make such sales; where, when and through whom were each and every sale of said bonds made by you?

(Objected to as immaterial and irrelevant.)

126 A. I have sold bonds within the time specified; I refuse to answer more specifically as it unnecessarily inquires into private affairs.

(Defendants' counsel will move to suppress this deposition for refusal to answer the other matters inquired about in the question.)

69×Q. Have you not at some time or times during the last nine years been engaged in hunting out such
127 of the Tennessee State bonds as were loaned to the various railroads of that State, or some of them, and which of them, and in order to get them have you not been buying Tennessee bonds on the market, and thereafter selecting such of them as were loaned to the companies you have sued, selling the others for the best price you could get for them; if so, give the dates of each and every such transaction, the names of every broker employed by you, and state especially, who advised or persuaded you to that course, and what he or
128 they said in advising or urging you to it?

(Objected as too broad in respect of time, and as immaterial and irrelevant.)

A. I will answer or not as my counsel wishes; I have bought bonds as an investment, but never at the advice or suggestion of any one but myself; I did it on my own judgment.

Further hearing adjourned to July 9, 1879, 10 A. M.

July 9th, 10 A. M. 129

Present—Counsel for both parties and the witness.

Calvin Amory Stevens recalled, and cross-examination continued by Mr. Baxter.

70×Q. Have you not at some time or times during
the last two years been engaged in hunting out some of
such of the Tennessee State bonds as were loaned to
the railroad companies involved in these suits, and in
order to get them have you not been buying Tennessee 130
bonds on the market, and after selecting such of them
as were loaned to said companies, or to other companies
that you desired to sue, selling the others back upon
the market?

(Objected to as immaterial and irrelevant.)

A. I have bought such bonds but have not sold all such that were not on the roads referred to.

71×Q. Did you not buy them for the purpose of instituting these suits? 131

(Objected to as immaterial and irrelevant.)

A. I was a large owner of Tennessee bonds long before these suits were instituted or thought of.

72×Q. Did you not own all of the bonds upon which you have brought these suits long before they were brought or thought of?

(Same objection.) 132

A. I should think not, for I have bought a great many bonds since.

73×Q. As to such of said bonds as you have bought since these suits were thought of, did you not buy them for the purpose of instituting these suits upon them?

(Same objection.)

133 A. I should say that I had amply sufficient bonds to institute suits long before they were commenced or thought of.

74×Q. Did you have enough bonds against each of the railroad companies you have sued in Tennessee to have given the Federal Court jurisdiction of each of them before these suits were brought or thought of?

(Objected to as immaterial and irrelevant to the controversies in these three suits, and also to any answer until the Court can determine whether we are to try other railroad suits in the course of the trial of these three.) 134

A. I object to answer as advised by counsel.

(Defendants' counsel will move to suppress this deposition because of the witness's refusal to answer this question.)

135 (Complainant's counsel offers to proceed *instanter* with the trial of all the railroad cases in the Federal Courts in Tennessee, in which Calvin A. Stevens is complainant.)

(Defendants' counsel replies that he is not of counsel in all of said cases, and has no right to control the trial thereof, but that if complainant is in earnest in stating that he is ready to proceed *instanter* to trial in the five cases of which defendants' counsel is engaged, meaning by the word *instanter* before this deposition is closed, defendants' counsel is ready to go to trial.) 136

(Complainant's counsel agrees to proceed with those five cases if defendants' counsel will set them for hearing on the 26th day of July, 1879.)

(Defendants' counsel having accepted one proposition made by complainant's counsel, does not feel bound to follow him to another.)

75×Q. Did you have enough bonds against each of 137 the railroad companies involved in these three suits to have given the Federal Court jurisdiction against each of said companies before these suits were brought or thought of; I mean did you have bonds enough against each of said companies for the past due coupons thereon to have amounted to five hundred dollars against each company?

(Objected to as immaterial and irrelevant, and in addition, that it assumes a question of law 138 which complainant's counsel thinks untenable.)

A. I owned between one and two hundred thousand Tennessee bonds long before these suits were begun or thought of; I don't know how many of such bonds were issued to the railroads involved in these three suits.

76×Q. Then, do you know at all that you had enough bonds against these three companies to have given the Federal Court jurisdiction as explained in cross-question 75? 139

A. I do not positively know that I had or had not, but out of so large a number of bonds, it is very fair to suppose that I had.

77×Q. Did you file your bills against these three companies upon the mere supposition that out of the large number of bonds that you did hold, you had bonds enough against each of them to cover the number of bonds that you stated in your bills you held against them?

A. I did not file any bills on any such presumption; 140 I was the absolute owner and still am of the full number of bonds mentioned in the bills when filed.

78×Q. Out of the fourteen bonds which you stated in your bill that you held against the Louisville and Nashville Railroad, how many of them had you held for as long as three months before said bill was filed?

(Objected to as immaterial and irrelevant.)

141 A. In answer to that question I would state that I don't know, and would have no objections in stating if I did know.

79×Q. Were there any of those bonds that you had not held for as long as three months before bringing said suit?

(Objected to because the question has been already answered.)

A. I don't know; if I did know I would have no objections in stating. 142

80×Q. Did you buy any bonds of the State of Tennessee that were issued to the Louisville and Nashville Railroad Company within three months preceding the filing of said bill?

(Same objection.)

A. I do not know.

81×Q. How many of the thirteen bonds which you claim in your bill against the Tennessee and Alabama Railroad did you hold for three months prior to your filing your bill against that road? 143

(Same objection.)

A. In answer to that question I would state that I do not know, and would have no objection in stating if I did know.

82×Q. Did you buy any bonds of the State of Tennessee issued to the Tennessee and Alabama Railroad within three months prior to your filing your bill against that road? 144

(Same objection.)

A. I do not know.

83×Q. How many of the thirteen bonds which you claim in your bill against the Central Southern Railroad did you hold for three months prior to your filing your bill against that road?

(Same objection.) 145

A. In answer to that question I would state that I do not know, and would have no objection in stating if I did know.

84×Q. Did you at any time within three months prior to your filing said last-mentioned bill buy any Tennessee State bonds issued to said Central Southern Railroad?

(Same objection.) 146

A. I do not know.

85×Q. Did you not within three months prior to your filing the three bills in these cases buy some Tennessee State bonds, and is it not more than probable that some of the bonds that you did buy were bonds that had been issued to these three companies?

(Same objection, and as asking for the opinion of witness.)

A. I do not know. 147

86×Q. Please give me your best belief?

(Same objection.)

A. I prefer to state only facts of which I have positive knowledge.

87×Q. Do you decline to give me your belief in answer to the question?

(Same objection, and because question has been already answered, and because it assumes that the witness has a belief, which is not proven.) 148

A. I have no objections in giving my belief if I had any particular belief on the question.

88×Q. Do you believe that any of the Tennessee State bonds that were bought by you within three months prior to the institution of these suits were issued to either of the three railroad companies involved in them?

149 (Objected to, as witness has said he had no particular belief on the question.)

A. I would gladly answer your question if I could; I have given all the facts I know.

89×Q. I am not now inquiring for facts; I am asking for your belief whether any of the Tennessee State bonds bought by you within three months prior to the institution of these suits were issued to the companies involved in them, and defendants insist that they have
150 the right to call upon the complainant to state whether he has any belief whatever as to the matters inquired about, and state what the belief is, if he has any, whether it be a general or particular belief, whether it be vague or definite?

(Objected to as not calling for testimony, and on the ground that the witness's belief, of whatever character, could not affect the facts as to whether Tennessee bonds purchased by him within
151 in the time named in the question were issued to these three companies, and on the ground that he has already said he has no belief on the subject.)

A. I decline to answer the question further, except as to any facts which I may know.

(Defendants' counsel will move to suppress this deposition, because the witness declines to state his belief upon recent transactions affecting
152 his title to the bonds in suit, the particulars of which transactions are exclusively within his possession.

90×Q. Will not the books, papers, memoranda or account kept by you of your bond purchases, and to which you referred in the previous part of this deposition, give some information as to when and how you became the owner of at least some of the bonds which you claim to hold against these three companies or either of them? 153

(Objected to as immaterial and irrelevant; that there is no question of title involved in these cases, the bonds have been produced before the officer of the Court, and no foundation has been laid to dispute their ownership.

A. I have not the numbers of all the bonds which I have bought and sold recorded in either my books or memoranda, and therefore they would not give the information sought. 154

91×Q. Do you not keep a list of the numbers of all or at least some of the Tennessee bonds which you have bought?

(Objected to as immaterial.)

A. I have the numbers of many of the bonds, and of others I have not. That is, I have kept a list of numbers of many of the bonds, but there are others of which the original numbers I have not; that is to say, so that I can distinguish where I bought them, and whether I bought them myself or whether they were given to me by my father. 155

92×Q. What is meant by the expression "original numbers"? Do State bonds carry more than one number?

A. I mean that I have not the numbers of the original bonds given me by my father, such bonds have been mixed with recent purchases, and other bonds which I have individually owned for years before my father's death, so that I cannot distinguish them. 156

93×Q. Have you a list or any memoranda of the numbers of the bonds, or any of them, that you have purchased or otherwise acquired since your father's death, and excluding those which you got by inheritance from him.

157 (Objected to as being too broad, not relating to the bonds in these suits, immaterial, and that the bonds themselves will be the best evidence.

A. I have a list of all the bonds which I at present own, but I have not a list of many bonds which were given me by my father, as also many bonds which I have sold.

94×Q. Have you a list or memoranda of the bonds which you still hold, but which you did not acquire
158 from your father?

(Same objection.)

A. I have not such a list. The bonds have all been mixed more or less.

95×Q. Have you a list of any of the Tennessee bonds inquired of in the cross-question 94, and if so, please produce it and give us a copy?

(Complainant's counsel objects to the pro-
159 duction of any such paper as not directed to bonds involved in these suits, and such a list of numbers would be immaterial.)

A. I will furnish all my books and papers in reference to my Tennessee bonds, if the Court shall so order, but otherwise I decline to do so, as I consider it an unwarranted intrusion into my private affairs.

96×Q. If said list was produced, would it show the dates when you purchased or otherwise acquired any
160 of said bonds?

(Objected to as hypothetical.)

A. My books would show the dates in many instances.

97×Q. Would your books show from whom or through whom you acquired any of said bonds?

(Same objection, and as immaterial.)

A. My books would show the amount of bonds received from different parties, but not in all cases the numbers. 161

98×Q. Would they show the numbers obtained from particular parties in any case or cases?

A. By my books I think I could trace them in many cases.

(Defendants' counsel here notified complainant's counsel that his object in calling for said books and papers is to see if they will not 162 furnish some evidence that will aid in ascertaining when, how and for what price the bonds sued on in these cases were obtained, and will move to suppress this deposition because that information is withheld.

(Complainant's counsel cannot waive any objection to the production of books to show when, how and at what price the complainant bondholder obtained his bonds, the material question 163 being, was he a bondholder when these suits were commenced and is he a bondholder now?)

(Complainant does waive any objection to any question which defendants may put purporting to show that the bonds were obtained for the bull movement claimed by defendants, and defendants may ask without objection whether any of complainant's bonds were obtained from any member of the committee of Tennessee bondholders or from Brown Brothers, or Maitland, 164 Phelps & Co., or Ward, Campbell & Co., or from the firm of Barings, of London, or from any of the combination of Tennessee bondholders, or any one acting on their behalf.)

(Complainant's counsel notifies defendants' counsel that he will ask for the same privilege of examination of Richard T. Wilson and the other

165 parties interested in railroad rings that have been engaged in "bearing" Tennessee bonds since 1870.)

(Defendant's counsel accepts the courtesy extended to him by complainant's solicitor, and extends to him the fullest reciprocity.)

99×Q. I understand you in your previous examination to have stated in substance that within three months preceding the bringing of these suits you had 166 purchased some Tennessee bonds on the market? Please state what your object was in making said purchases?

(Objected to as immaterial and irrelevant, and as not affecting the issues, whatever complainant's object in affecting the purchases may have been.)

A. I bought them because I had funds to invest, and thought them a good investment.

167 100×Q. Was the State of Tennessee paying the interest upon her bonds at the time?

(Objected to as not the best evidence and immaterial.)

A. She was not three months before the filing of the bills.

101×Q. When was the last time prior to the filing of your bills that the State of Tennessee paid her semi-annual interest on her bonds here in New York?

168

(Objected to as not primary evidence and because the defaults of the State of Tennessee on her bonds are admitted by the pleadings in these suits, and any answer objected to.)

A. I object to answer by advice of counsel.

(Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer this question.)

102×Q. Is it not a fact that the State of Tennessee had not paid the interest upon her bonded debt for more than two years prior to your filing the bills in these cases? 169

(Same objection.)

A. I object to answer by advice of counsel.

(Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer this question.) 170

103×Q. Is it not a fact that with the exception of some interest paid in 1867 and 1868, and some paid in 1874 and 1875, the State of Tennessee has paid no interest since the commencement of the late war?

(Same objection.)

A. I object to answer by advice of counsel.

(Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer this question.) 171

104×Q. Are you in the habit of investing your capital in the bonds upon which the interest has been in default for a series of years prior to your purchase, or do you generally seek interest-bearing and interest-paying securities?

(Objected to as not calling for testimony as immaterial and irrelevant, and because the witness is not bound to furnish the principles on which he proceeds in investing his capital, and further, because it assumes that these bonds are not interest-bearing securities with paramount liens on the railroads of Tennessee, and I object to any answer on the same ground.) 172

A. I object to answer by advice of counsel.

173 (Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer this question.)

105×Q. Is it not a fact in regard to every Tennessee bond issued to the railroads involved in these suits, that you bought at any time within twelve months preceding the institution of the suits, that it was bought by you with the express purpose of instituting suits to enforce the lien which you claim to exist upon said 174 railroad, and did you not look to the proceeds of such litigations as the means of realizing upon your investment, and is not that your real meaning when you say that you bought them as an investment?

(Objected to as immaterial and irrelevant.)

A. I could not say that that was the real fact.

106×Q. Was not that your principal, chief motive?

175 (Same objection.)

A. I could not say as to every bond bought within twelve months before the litigation; but as to the majority of bonds bought immediately before or after the litigation. I bought such believing them to be a first mortgage lien on the roads to which they were issued, and believing them to be a good investment.

107×Q. What length of time are we to understand that you mean to cover by the word "immediately"?

176 A. Well, within a few months—after I read the statute under which the bonds were issued.

108×Q. What do you mean by a "few months"?

A. Less than twelve months; within the twelve months.

109×Q. You state in cross-question 106, that you bought such bonds "believing them to be a first mortgage lien on the roads to which they were issued, and believing them to be a good investment;" now, do you believe

that they would be a good investment unless they are 177
a lien, as you claim them to be?

(Objected to as calling for witness's opinion, and as immaterial.)

A. I would not regard any except Tennessee lien railroad bonds a prudent investment.

110×Q. Would the lien add anything to the value of the bonds as an investment unless said lien could be
enforced? 178

A. I should say that it would not, but I believe that it will be enforced.

111×Q. Then, I asked you in cross-question 105, did you not buy your Tenessee railroad lien bonds with the express purpose of instituting suits to enforce such liens?

(Objected to because it is based on an inference not warranted by the previous answer that the
witness, and not other bondholders, might insti- 179
tute suits for the enforcement of the liens on the railroads.)

A. Many of my Tennesssee bonds were owned long before I anticipated any necessity of instiutting the suits to enforce my rights.

112×Q. Please answer my question then as to such of said bonds as you did not own long before you anticipated the necessity of bringing such suits?

A. I have every reason to believe that I owned a suf- 180
ficient number of bonds to fully test the question without making any additional purchases; I made such additional purchases because I believed them to be a good and legitimate investment.

113×Q. You are again asked to state if you did not make such additional purchases with the express purpose of instituting suits to enforce said lien?

A. No, sir; not for the express purpose, as I have

181 every reason to believe that I already owned sufficient bonds to test the question.

114×Q. When you bought said additional bonds, did you do it with the express purpose of embracing them with your original bonds in the suits which you afterwards brought to enforce said lien?

(Objected to as immaterial and irrelevant, and because it does not appear from the proof adduced here that other bondholders did not intend 182 to file bills to enforce their railroad liens, and because it has already been claimed by the defendants on the taking of this deposition that these bills were filed in pursuance of a combination among the bondholders; and further, because these bills are filed on behalf of other bondholders in like interest with the complainant.)

A. I bought them as a legitimate investment, not for the express purpose of instituting these suits; I 183 should never have instituted any suits had I not been a large owner for a long time before I anticipated the necessity of enforcing my rights.

115×Q. My question was, did you not buy said bonds with the express purpose of embracing them with your original bonds in the suits which you afterwards brought to enforce said liens; you answer that you did not buy them for the purpose of instituting these suits; please answer the question as asked?

184 (Same objection.)

A. Not necessarily for the express purpose, though of course, if I afterwards decided to institute suits, I expected to include any bond that I owned.

116×Q. Had you not made up your mind to institute such suits before you made these additional purchases?

A. I had not; I awaited Charles O'Conor's opinion—

after a thorough examination on his part of the question—before I decided to institute the suits. 185

117×Q. Do you refer to the printed opinion of Mr. O'Conor published in New York, in pamphlet form in March, 1879?

(Objected to as immaterial, and because the complainant is not bound to give all the mental processes by which he reached a determination to compel these railroad companies to pay the bonds made liens on them respectively by the 186 Statute. And further, because Mr. O'Conor's opinion furnishes the best evidence of its own contents. I waive the production of the original and consent that defendants may put in a copy, and I object to any answer.)

(Defendants' counsel declines to file either the original or a copy of said opinion of Mr. O'Conor, because as complainant's counsel has so often said, it is immaterial and irrelevant to the issue.) 187

A. I object to answer by advice of counsel.

(Defendants' counsel will move to suppress this deposition, because this question is not answered.)

118×Q. Were you aware prior to your purchase of any of the bonds sued on in either of these cases that the railroads which you have sued denied that said bonds were a lien upon their property? 188

A. I cannot answer as to these particular bonds.

119×Q. Did you not know at the time of said purchases that the said railroad companies denied that any Tennessee bonds loaned to them were a lien upon their property?

A. I cannot say as to these particular bonds, for I don't know how long I have owned them.

120×Q. For how long a time prior to the institution

189 of these suits were you aware of the fact that said railroad companies denied that the bonds loaned to them by the State of Tennessee were liens upon their property; if you cannot state exactly come as near to the time as you can?

A. Somewhere within three years, I suppose.

Adjourned by consent to July 10th, 1879, 10 A. M.

190

JULY 10th, 10 A. M.

Present—Counsel for both parties, witness and cross-examination continued by Mr. Baxter.

121×Q. In cross-number 110, you answer that you believe that the lien which you claim to exist in favor of your bonds will be enforced; upon what do you 191 ground that belief?

A. First, because the Statute under which the bonds were issued in plain and positive language declares the bonds themselves to be liens; secondly, because the highest legal advice that I could obtain advised me to that effect.

122×Q. Have you any other reasons than those you have just stated for the belief you entertain?

A. The arguments and briefs which I have read from counsel on the other side further strengthen 192 that belief.

123×Q. Have you still any further grounds for that belief than those you have just stated, if so what?

A. I have; the active interest which the several railroad companies have shown towards affecting a State settlement since the filing of the bills, further strengthen my belief; also the getting up of the Delmonico dinner, and the placing there of mere figureheads who misrepresented the bondholders as generally assenting to the fifty-and four per cent. compromise also strengthen my belief; also the misrepresentation as to the number of bondholders and the amount of bonds which are represented to have assented to the proposed State settlement strengthen my belief. 193

124×Q. Have you not still another secret reason for your belief which you have not yet divulged?

A. I have not a secret reason, though I have other reasons.

125×Q. Will you please state all of those other reasons? 194

A. I refer to the delays and obstructions of the railroad companies in order to postpone the hearing of the causes.

126×Q. Have you not received either from your counsel or from others certain assurances upon which they and you contemplate success upon the peculiar line of attack which you have adopted, that you have not yet disclosed, and are you not relying with very great confidence upon these assurances?

A. The fact that the railroad companies snatched this question away from the Supreme Court of the United States, while that body had the case under advisement, and that the companies were apparently unwilling that the Court should render a decision, are additional reasons for my believing that this great wrong will finally be righted by that Court; I have no secret reasons whatever. 195

127×Q. I again ask: have you not received either from your counsel, or from others, certain assurances upon which they and you contemplate success upon the peculiar line of attack which you have adopted; please answer that question? 196

A. I deny having received such assurances.

128×Q. Have you not heard either in person, or through others, certain facts which you have not yet communicated that tend to strengthen your confidence?

A. I have endeavored to give the facts which strengthen my convictions as to the right of our cause;

197 I will gladly state any particular facts to which counsel may have reference, if he will state them.

129×Q. Have you no reasons for anticipating success other than your own belief in the justice of your cause, the strength of your own counsel's argument, the weakness of the arguments of your adversaries, and the panicky conduct of the railroads which you have described above?

(Objected to as question is already answered,
198 and as immaterial and irrelevant.)

A. The efforts of numerous honest and intelligent men in Tennessee to prevent that legislation by which the railroad companies, in collusion with the State, sought to deprive the bondholders of their rights, further strengthens my convictions; I think of no other reasons at this time.

130×Q. In your answer to cross-question 123, you allude to the active interest which the several railroad
199 companies of Tennessee have shown towards affecting a State settlement since the filing of your bills; do you not know it to be a fact that the railroad companies of Tennessee have always and long before your bills were filed or thought of been earnest and open advocates of the State credit of Tennessee; have they not always aided every committee of bondholders that you have ever sent to that State, as far as it was believed by the bondholders and the railroad companies that it was prudent, having regard to the interest of the bond-
200 holders that they should aid you; and was it not publicly charged by the present Governor of Tennessee in his inaugural message that the railroads and bondholders have always been in collusion to make the people of the State of Tennessee pay its bonded debt; and have you not quoted at great length in a petition which you have filed for a receiver of the Nashville & Decatur Railroad, and from another message of that same Governor, thus endorsing him to this Court as a

npetent and reliable exponent of the politics of 201
nessee ?

(Complainant's counsel objects on the ground that the Governor's message is the best evidence of its contents, and insists on the production and adducing of the document, or a copy, or such parts thereof as refers to this question ; and as to the portion of the question referring to the contents of the petition for a receivership of the Nashville & Decatur Railroad, he objects on the 202
ground that the records of this Court are their own best evidence, and he objects to any answer being made to those portions of the questions referring to the Governor's message and the petition on file)

. On the contrary, I know by the recent State in-
tigation that the Memphis and Charleston Railroad
npany employed disreputable means which injured
credit of Tennessee and depreciated the bondhold- 203
securities ; it was done for the express purpose of
ucing the bondholders to sacrifice their bonds and
ble the railroad company to buy them at the lowest
ssible figures, and turn them into the State at par ;
s believed in well-informed circles that a combination
this city, in the interest of railroad purchasers, made
rt sales of the bonds for the same purpose ; it is
o believed in well-informed circles that railroad com-
nies in Tennessee taught the State of Tennessee the
st lesson in repudiation ; I don't deny but what after 204
railroad companies had secured all the bonds they
shed, that they then sought to build up the credit of
e State again for their own selfish purpose ; they
ve sought to get present outstanding bonds retired
order that they might be free from all liability to
original bondholders from whom they obtained the
pital to build their roads.

The railroads may profess to have assisted the bond-

105 holders, but, in truth, for the express purpose of extricating themselves, at least treating the bondholders' interest as a very secondary consideration.

I object to repeat documents which would speak for themselves, by advice of counsel.

(Defendants' counsel insists that he has not called for the documents mentioned, or either of them, and will move to suppress this deposition, because the witness declines, has not answered as to the facts called for by the last clause of the
106 question.)

131×Q. You state in your last answer, that you know by the recent State investigation that the Memphis and Charleston Railroad Company employed disreputable means which injured the credit of Tennessee; have you any personal knowledge of that fact yourself?

(Objected to because witness has already stated
107 the source of his knowledge.)

A. I base my assertion on the records which clearly prove it.

(Defendants' counsel now excepts to so much of witness's answer to cross-question No. 130, as refers to the Memphis and Charleston Railroad Company, because it appears that he has volunteered a statement with reference to which he has no personal knowledge, and of which, if true at
108 all, the records to which he refers are the best evidence.)

(Complainant's counsel insists that the answer is responsive to the question which extended to all the railroads of the State, and produces for inspection of the Commissioner and counsel present the sworn testimony taken before a Committee of the Tennessee Legislature on the matter referred to by the witness.)

132×Q. Do you not know as a fact, that the plan by 209 which most, if not all of the railroad companies of Tennessee bought the State bonds with which they retired their debts to the State of Tennessee, was to employ brokers or bankers in New York to sell the bonds of the companies, and with the proceeds arising therefrom, said brokers or bankers purchased bonds of the State of Tennessee on the open stock market of New York; that the companies made no purchase of State bonds directly, and had nothing to do with the means or devices usually resorted to by such brokers 210 or bankers to depress the value of securities for which they have orders to buy ?

A. I know that those very bankers or agents were the principal managers of and very large owners in the companies whose bonds they purchased.

133×Q. Please state what bankers and brokers you refer to, and what companies you refer to ?

A. Messrs Wilson & Iselin. I refer to those companies of which they are managers and stockholders in.

134×Q. Of what companies are they managers and 211 stockholders ?

A. I have understood that they are largely interested in East Tennessee, Virginia and Georgia, Memphis and Charleston, and very likely other roads.

135×Q. Do you intend any of the language you have used, relating to the depression of State credit, to refer to the Louisville and Nashville, or the Nashville and Decatur Roads, or to any of the officers or managers of either ?

A. I believe that all the railroad companies of Tennessee have been and still are in very close communion, though in different degrees of guilt. 212

136×Q. Will you have the frankness to make a specific charge against either of said companies or the managing officers thereof, implicating them in any attempt at any time to depress the credit of the State of Tennessee, giving names and dates with the facts which you charge ?

213 (Objected to because counsel asked in reference to the conduct of all the railroad officials of Tennessee, and the witness answered as to those within his knowledge. Further, because this is a Court to try the liability of these railroads for their debts, and not for the reception of charges against their officers. When these companies have paid the Internal Improvement Bonds issued to them, and are seeking reclamation from the State, the testimony here sought may be mate-
214 rial, but the witness has now nothing to do with controversies between the companies and the State. I object to any answer, and give notice that on the reading of this deposition I shall move to strike out all of the questions and answers referring to the efforts of the railroad companies to secure a settlement by the State, and all other matter in this deposition not relevant to the issue.)

215 A. I object to any answer, because my counsel so advises.

(Defendants' counsel will move to suppress the deposition because the witness has refused to answer this question.)

137×Q. You say in your answer to cross-question 130, that it is believed in well-informed circles that a combination in this city in the interest of the railroad
216 purchasers made short sales of the bonds for the same purpose, meaning to depress the credit of the State; please state who belong to those well-informed circles, and who compose the combination which you there refer to?

(Objected to as having nothing to do with the case, and all answer objected to,)

A. I object to answer, because my counsel so advices.

(Defendants' counsel will move to suppress the deposition because of the refusal of the witness to answer. 217

138×Q. You state in your answer to cross-question 130, that it is also believed in well-informed circles that the railroad companies in Tennessee taught the State of Tennessee the first lesson in repudiation; please tell us who composed those well-informed circles, to which railroad companies you refer, and to what lesson in repudiation? 218

(Complainant's counsel requests defendants' counsel to point out the issues in the pleadings to which the question is relevant.)

(Defendants' counsel replies it is alleged in the bills filed against the Nashville and Decatur Railroad Company, that the State of Tennessee and the railroad companies had been in default during the late civil war, and had not paid the interest on the bonds issued to the com-
219
panies; that the market value of the bonds had meanwhile fallen very greatly; that under these circumstances, the officials of the railroad companies conceived the project of avoiding the liabilities of these corporations for the payment of the bonds loaned to them; that their project was to treat the lien on the railroads as the absolute property of the State without regard to the trust in favor of the holders of the bonds whose moneys the companies had received; that they
220
purposed to induce the Legislature to proceed upon this basis and to assign the lien on each road in consideration of the receipt by the State of an amount of its bonds from each company, without regard to whether they were bonds loaned to the company delivering them or not. That they applied themselves to the procurement of such acts of the General Assembly of

221 Tennessee as they deemed would assist them in the accomplishment of their project; and further, that the railroad companies knew that they were engaged in an attempt to grasp the security and property conferred by the statute upon bondholders. These averments are denied in the answer, and one of the objects of this cross-examination is to disprove said averments, and the object of this particular question is to get the names of the parties who are said to have entertained a certain belief, with a view of asking 222 those parties whether they entertain those views or not.)

(Complainant's counsel insists that the quotation from the bill does not present any issue in regard to the repudiation of its debt by the State of Tennessee. Complainant's solicitor further presents to the commissioner, and asks that it be attached to this deposition, a copy of the following notice served and filed in these causes, and 223 marked Complainant's Exhibit 4, July 10th, 1879.)

A. I object to answer because my counsel so advises.

(Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer this question.)

224 139×Q. In your answer to cross-question 125, you refer to the delays and obstructions of the railroad companies in order to postpone the hearing of the causes; do you refer to these three causes?

A. I do.

140×Q. Did not these defendants file their answers in these causes within the time allowed them by the rules of the Court as established by the Supreme Court of the United States.

(Objected to because the record is the best evidence, and I object to any answer, and for immateriality.) 225

A. I object to answer.

(Defendants' counsel will move to suppress this deposition because of witness's refusal to answer this question.)

141×Q. Has the three months allowed by the 69th Equity rule for taking testimony in these causes yet expired, and do you not know the fact that until those three months do expire you have no right to call the cases for trial? 226

(Objected to as not the best evidence, and because immaterial to the issues.)

A. I object to answer.

(Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer.) 227

142×Q. Please explain then what you mean by the delays and obstructions referred to in your cross-answer number 125?

A. I refer more particularly to the fact of the defendants having applied to the Court for an extension of time after having already admitted that it was not necessary.

143×Q. Who informed you that the defendants had ever made any such admission? 228

(Objected to as not being within the issues of the causes, and I object to any answer further, because the records in the causes state the condition of the litigations in respect to delays and otherwise.)

A. I object to answer.

229 (Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer the question.)

144×Q. Was not the extension of time of which you complain granted by the United States Circuit Judge at Nashville, in open Court and in the presence of your counsel, and did not the judge decide that the defendants had shown good cause for the extension of time granted?

230 (Objected to because the record is the best evidence, and I object to any answer.)

A. I object to answer.

(Defendants' counsel will move to suppress the deposition because of the refusal of the witness to answer this question.)

145×Q. Do you know of any other litigation involving such issues and amounts as you claim to be involved in these suits that was ever forced to a hearing in so short a time after it was commenced? If so, please give us a reference thereto? 231

(Objected to because not relevant, and as calling for witness's opinion as an expert, and any answer objected to.)

A. I object to answer.

232 (Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer this question.)

146×Q. Is not this the first deposition that you have given the defendants notice that you desired to take any testimony in either of these three cases, and have you taken any proof at all in any of the other cases that you have brought against the railroad companies in Tennessee?

(Complainant's counsel objects to the first part of the question because the records are the best evidence, and to the second part of the question because litigations with other railroad companies are not relevant to these cases.) 233

A. I object to answer.

(Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer this question.)

234

147×Q. Please explain your motive in holding back your testimony in these three cases until the time allowed by the 69th Rule for taking proof has nearly expired?

A. The question at issue rests on the interpretation of the Statute; all necessary testimony could be taken in a very short time; I regard the taking of so much testimony on the part of the defendants as intentionally for the purpose of encumbering the record and postponing the trial; I had no motive, nor have I intentionally delayed the taking of the little testimony that we care to. 235

148×Q. Then, if I understand you, you think that nobody has any right to take any proof in this case but you; how did you expect the defendants to be able to get up their testimony within the short time now allowed them, even if they wished to confine their testimony to contradicting your deposition, if such testimony can be found?

236

(Objected to as immaterial and irrelevant and calling for the opinion of an expert.)

A. You certainly do misunderstand me; I desire that the defendants should have the fullest liberty to take all testimony that bears on the question at issue.

149×Q. Have you any other oral proof which you expect to offer in these cases, if so, give me the names of the witnesses whom you expect to examine?

237 A. I know of none decided upon at this time.

(Complainant's solicitor states that he does not expect to adduce any further oral testimony as the notice of resting served on defendants' counsel some days since has already indicated. Complainant's solicitor requests defendants' solicitor to state the names of any witnesses he proposes to call, if any.)

238 (Defendants' counsel has not such memoranda with him as will enable him to do this; but he expects to introduce a number of witnesses to support the averments of the answers filed in these cases, and to controvert various statements in this deposition.)

(Complainant's solicitor desires to know when defendants' solicitor can furnish him with the names of witnesses.)

239 (Defendants' counsel will serve him with written notice of the names of those witnesses after the complainant's proof is closed.)

150×Q. Please state your real motive for the extraordinary vigor with which these cases have been pressed to trial?

(Objected to because it assumes a fact not proven.)

240 A. Because there is no good reason why they should be further postponed.

151×Q. Have you not previously stated that you bought or held these bonds as an investment, and do you not know that if they are a first lien upon the railroads which you have sued, that said roads, when brought to sale, will bring far more than enough to pay every bond and coupon loaned to them by the State of Tennessee which are now outstanding?

A. I do not know that fact, but believe it to be so; 241 but I had rather have what is due me in my own possession than in the treasury of the Louisville & Nashville Railroad Company.

152×Q. Have you not got the bonds in your possession now, and if they are first liens upon such valuable property, how is it possible for the Louisvile & Nashville Railroad Company to deprive you of them or of the interest that may accrue upon them hereafter, and can you possibly get a better investment than six per cent. first mortgage bonds upon such property, consid- 242 ering the small amount now outstanding?

A. I have the bonds in my possession; I have other reasons for preferring to have my own outside of the treasury of the Louisville & Nashville; this unnecessary delay in the trial of the causes is largely increasing the costs of the litigation, and while the Louisville & Nashville Railroad Company may be solvent to-day, it is not certain it will be years hence.

153×Q. If your bonds are first liens upon these railroads, are they not amply secured whether the Louis- 243 ville & Nashville Railroad Company remains solvent or not?

A. I do not know that fact, nor does it excuse the injustice of the Louisville & Nashville Railroad Company in withholding the interest on my bonds, which it agreed by the express terms of the Statute to provide for, and which it did provide for during many years.

154×Q. Do you not believe that said railroads are ample security for your bonds independent of the solvency of the Louisville & Nashville Railroad Com- 244 pany?

A. I believe that the security is amply good at this time, but that the unnecessary delay of the defendants is causing me daily loss.

155×Q. Please state how such delay is causing you any loss, defendants not admitting that there is any such delay?

A. The expenses of the litigation are large, and it is

245 occupying my time to the detriment and loss of other interests.

156×Q. How many days of your time has this deposition taken, and who gave notice to take it?

(Objected to as not the best evidence, and the answer objected to.)

A. I decline to answer.

(Defendants' counsel will move to suppress 246 this deposition because of the refusal of the witness to answer.)

157×Q. If the Court should decree a sale of these roads to pay the amount claimed by you, would you not immediately thereafter seek an investment for money received by you from the sale; are you in need of the money involved in these litigations except for the purpose of getting it to re-invest in other modes?

247 (Objected to as immaterial and irrelevant and any answer objected to.)

A. I certainly would seek a re-investment, but not in a State where capital is so insecure as in Tennessee, and where trusts are so flagrantly violated and sacred obligations so frequently dishonored.

158×Q. Having made your speech, will you oblige me by a respectful answer to a respectful question, and tell me whether you need the money involved in these litigations except for the purpose of getting it to re-invest in other modes? 248

(Objected to because the question has been already answered, because it is immaterial and irrelevant, and because the rights and remedies of parties are not adjudicated upon the basis of their necessities or absence of necessities, and because the statement of the character of investments which complainant would seek when he

receives the overdue interest upon his bonds was 249
a fair reply to the question and not a speech. I also object to any answer.)

A. I object to answer.

(Defendants' counsel gives notice that his object in this part of the examination is to show that there is no pressing necessity either for the immediate hearing of these cases nor for the appointment of a Receiver over the Nashville and
Decatur Railroad, and he will move to suppress 250
this deposition because of the refusal of the witness to answer this question.)

159×Q. You have stated in cross-question 153, that the Louisville and Nashville Railroad Company provided for the interest on your bonds during many years; do you state this fact of your own knowledge or have you ever heard any one else state such to be the fact, and if so, who?

A. I state that as a fact, because the Act under which 251
the bonds were issued specially provided that the Louisville and Nashville Railroad Company should provide for the semi-annual interest on all bonds issued to that company or furnish satisfactory evidence that said interest had been paid; the penalty for not providing the interest would have undoubtedly been enforced by the State had the terms of the Statute not been complied with; no such penalty was ever enforced.

160×Q. You then state as a matter of fact what
you had only reasoned out as a matter of argument; 252
am I correct?

A. No, sir; I state it as an undisputed fact, that the Louisville and Nashville Railroad Company has never been foreclosed or to my knowledge in the hands of a receiver.

161×Q. And do you not argue from that fact, that the Louisville & Nashille Railroad Company must have provided the interest upon the bonds loaned to it, and

253 is not that the only way that you come to the conclusion that it did provide for them?

A. Certainly; those are some of my reasons for making that assertion; moreover, the Ex-Treasurer of the Bank of Tennessee informed me that such was the case.

162×Q. Did he tell you that the Louisville & Nashville Railroad Company had ever paid to any holder of bonds loaned by the State to that Company the interest due thereon?

254 A. He said that the railroad companies paid their interest on their bonds through the Bank of Tennessee as their agent, paying their agent the costs and commissions attending such payment; nor did he deny that the railroad companies had the right by law to pay the interest directly themselves.

164×Q. My question was, did he tell you that the
Louisville & Nashville Railroad Company had ever paid
to any holder of bonds loaned by the State to the company the interest due thereon; please answer yes or no
255 to that question.

A. I have no recollection of his ever making such an assertion, nor of my asking him that question.

164×Q. Did he not say to you that the Louisville & Nashville Railroad Company was in the habit of depositing in the Bank of Tennessee an amount sufficient to pay the interest with exchange, &c., upon the bonds loaned by the State to that company?

A. He said that the railroad companies were in the habit of so doing.

256 165×Q. Were the bonds payable in Nashville or in New York?

A. In New York.

166×Q. The Bank of Tennessee, then, could only then have paid the interest through some agency in New York; is this true?

A. I do not understand it so.

167×Q. Was it your understanding from him that the coupons were paid in Nashville by the bank there?

A. I understood that the bank of Tennessee, as agent, paid the money into the Treasury of Tennessee (the bondholders' trustee), who, in turn, provided for the payment of the interest in New York. 257

168×Q. Through whom did the Treasury of Tennessee make payment here in New York, as you understood?

A. Through banks in this city; such as the Fourth National and the Bank of Republic, I understand.

Adjourned to July 11, 1879, at 10 A. M., by consent. 258

JULY 11th, 1879, 10 A. M.

169×Q. In your answer to cross-question 161, you speak of the ex-treasurer of the Bank of Tennessee; what was his name, and when did he make the statements you refer to? 259

A. I do not at this moment remember his name—Morton I think—the statement was made since January, 1879.

170×Q. In your answer to cross-question 168, you speak of the Fourth National Bank of New York as being one of the banks through whom the interest was paid upon the Tennessee bonds loaned to railroads; was not that bank organized after or during the late war?

A. I do not know; I am not so positive as to the Fourth National Bank as I am in reference to the Bank of the Republic. 260

171×Q. Have you ever presented any coupons of Tennessee bonds loaned to railroads for payment; if so, did you present them to the railroad companies to whom the bonds had been loaned or to some bank or banks in New York?

A. I have never presented any coupons to any railroad companies direct.

261 172×Q. When presenting them for payment did you have your coupons assorted according to the different roads to which they had been loaned, or did you have all the coupons of your railroad lien bonds mingled together and present them all for payment in a batch or block ?

A. I have no recollection of collecting any Tennessee coupons in person.

173×Q. Through whom did you collect them ; please give me the names of all the parties whom you can now
262 remember ?

A. As I recollect, my father collected them ; myself being much of the time absent from the city.

174×Q. Have you any counsel or attorneys employed in either of these suits, except the counsel whose names appear to be signed to the bills ; if so, please state who they are and where they reside ?

A. I have positively employed none except Judge Hoadly and Mr. Andrews.

175×Q. Have you not a solicitor or attorney at Nash-
263 ville, upon whom notices to take depositions in these cases can be served ; if you have, state his name ?

A. Mr. Sam. Watson is employed by my counsel as agent for me though not by myself in person.

176×Q. Has your counsel employed any one else at any other place except Mr Watson ; if so, who ?

A. He has also employed other counsel at Knoxville, Memphis and Louisville ; the record shows I suppose.

177×Q. Is the compensation you are to pay your counsel and attorneys precisely the same if you lose
264 these suits, as if you gained them ; if not what difference ?

A. I should say that it was.

178×Q. Is your agreement or any memorandum thereof, in regard to such compensation in writing ?

A. I pay my counsel as I go along, and have no agreement in writing.

179×Q. Are they to receive any part of the bonds or

coupons upon which these suits have been brought as a 265
part of their compensation?

A. They are not.

180×Q. Are you alone engaged in the prosecution of these suits as complainant; if not, give the names of each and every person who has agreed to aid you in the prosecution of said suits, or any of them, and of every one who has contributed or promised to contribute towards the fees and expenses of said suits?

A. All these suits were begun independently by my- 266
self, and I have paid all expenses to date; I begun them on my own judgment, not relying on the assistance of any other bondholders.

181×Q. Is there not an association or organization of some of the holders of Tennessee bonds loaned to railroads, the object of which is in part to assert a lien upon said railroads in favor of said bondholders, and are you not a member of said association or organization and an officer thereof?

A. I am the Treasurer of the Committee of Tennessee 267
Bondholders; the object of the association is in part to assert a lien upon said railroads in favor of said bondholders.

182×Q. Did not said committee or organization a short time prior to May 17th, 1879, decide to adopt the suits which you had previously instituted in the Federal Courts of Tennessee; did they not invite all bondholders who might wish to secure the benefits resulting from said litigations to sign a certain paper, the heading of which
is here filed and marked "Defendants' Exhibit No. 1, 268
July 11th, 1879," and was it not one of the conditions upon which such bondholders were allowed to come in to these suits that they should deposit "with the committee five dollars per lien bond in cash and one past due coupon from each bond of that description," the same being "required to defray the necessary costs and expenses of the litigation," and was it not represented by the Committee that "in no event will the

269 bondholders be called upon for any further assessment, nor do they incur any personal liability by uniting in this plan; should any surplus funds remain in the hands of the Committee after all other expenditures have been provided for, the same will be returned to bondholders *pro rata;* those who do not comply with the aforesaid conditions will be excluded from the benefits derived from the action of the committee?"

A. The committee did decide to adopt my suits; they did invite bondholders to sign the paper filed as
270 "Defendants' Exhibit No. 1, July 11th, 1879;" such were the conditions and, speaking in behalf of the Committee, the agreement on their part will be faithfully carried out.

183×Q. Did not said Committee engage certain counsel at New York and Cincinnati to be assisted by competent counsel at Nashville, Memphis, Knoxville and Louisville to aid in the prosecution of said suits?

A. They have not as yet.

184×Q. Are not said counsel, or some of them, now
271 actively engaged in the prosecution of these suits?

A. They are actively engaged in the prosecution of *my* suits.

185×Q. Please give me the names of all persons who have signed papers similar to "Defendants' Exhibit No. 1, July 11th, 1879," assenting to the plan of the Bondholders' Committee; give me the names of all that you can now remember, and refer me to the proper officer of your Committee from whom I can ascertain the others?

272 A. The names are very numerous; I decline to give them, or connect the affairs of the Committee of Tennessee bondholders with my individual suits at issue.

(Defendants' counsel will move to suppress this deposition because of the refusal of the witness to answer this question.)

186×Q. How long have you been actively connected with said Committee? 273

A. I have not the dates, though I had severed my connection with the Committee when or before I filed these bills; though I have since again acted with them.

187×Q. Please state as near as you can remember, without being precisely accurate, how long you had been connected with the Committee before you severed your connection as stated above?

A. From the date when I was appointed secretary at the first meeting of that Committee of Tennessee bondholders until the filing of the bills. 274

188×Q. In what year was the first meeting of the bondholders of which you were appointed Secretary?

A. The year 1877, I think.

189×Q. Was it not a part of your duties as an officer of said Committee to keep yourself well advised of all matters affecting the interest of said bondholders; and did you not do so from the time you became such Secretary? 275

A. I certainly aimed to do so.

190×Q. You state in your original answer number 6, and in cross-answer number 185, that the holders of Tennessee bonds, and of those who have assented to the plan of the Committee, are very numerous; do any of such parties reside in the State of Tennessee?

A. I decline to give the names and whereabouts of those who have assented; I am informed that some of the holders of Tennessee bonds reside in Tennessee.

191×Q. Have not the Committee stated to Tennessee bondholders that "the members of the Committee are owners to a large amount of bonds that are not liens on the railroads, which they do not propose to fund into the fifty and four per cent. bonds offered; they believe that the enforcement of the railroad liens will bring about a much better settlement than is now proposed"? 276

A. They did, and that, too, for very good reasons.

277 192×Q. Please state if the Committee of Tennessee bondholders did not upon July 3d, 1879, issue a circular, a copy of which is here produced and filed, marked "Defendants' Exhibit No. 2, July 11, 1879," and was not said circular published as an advertisement in the *New York Herald*, of July 9 or 10, 1879; a copy of said advertisement being here produced, and marked "Defendants' Exhibit number 3, July 11, 1879?"

A. Such are the facts.

193×Q. Is it not a part of the policy of the Committee of Tennessee bondholders to prevent the people of Tennessee from voting in their pending election in favor of offering to the bondholders of the State a compromise of the indebtedness of the State in bonds for fifty cents on the dollar of the present bonds, and four per cent. interest on the new bonds. 278

(Complainant's counsel request defendants' counsel please to state whether this testimony is intended to relate to the issues on the pleadings or to the pending motion.) 279

(Defendants' counsel states this question relates principally to the pending motion for a receiver, and for precipitating the trial, said motion as the notice informs him is to be heard upon the pleadings and proceedings, but he expects to make such use of the testimony on the main issues as he may be advised.)

280 (Complainant's counsel requests defendants' counsel to state what he proposes to show by this line of questions in regard to the State election.)

(Defendants' counsel is not willing to disclose at this point the plan of his cross-examination of the complainant, but will develop it by a series of questions following this.)

A. I refer the counsel to that Committee; I have no

authority to speak for them; such may or may not be 281
the case.

194×Q. Do you not think that you are apprised of the policy of the Committee on the question referred to in cross-question number 193, and while you may not be authorized to speak for them, cannot you tell what their policy is?

A. I am not apprised of their intentions; I do not believe that they have decided upon any policy in that direction.

195×Q. Have not you or your Committee been in 282
correspondence with persons in Tennessee who are opposing the offering of that compromise?

A. Not that I am aware of—only so far as the Secretary may have answered any reasonable inquiries as to the committee's doings.

196×Q. Have you not written, or do you not know that members of the Committee have written, letters to persons in Tennessee, the object of which were to defeat the pending compromise?

A. I do not know of any such instances, nor do I 283
believe that any such have ever occurred; the Committee has no alliance with or respect for the repudiating element in Tennessee.

197×Q. Do you not know that the repudiating element in Tennessee are now urging upon the people as a reason why they should not vote in favor of offering a compromise to the bondholders of Tennessee, that the compromise will not be accepted by the bondholders even if offered by the people, and have you or your Committeemen not been writing letters to those repudation- 284
ists to the effect that the bondholders would not accept the compromise, and have you not done so for the purpose of enabling those repudiationists to make their arguments effective?

(Objected to on the ground that the efforts of the railroad companies to induce the people of Tennessee to lift the mortgages from their prop-

285 erty, and to compel the bondholders owning those mortgages to release them within a limited period, have no reference to the rights of complainant to a trial for the enforcement of his mortgage liens upon these railroads.

Irrelevant and immaterial to any controversy between bondholders enforcing their statutory lien, and the railroads subject to it.)

(DEFENDANTS' COUNSEL: In order to save time and expedite a hearing, defendants' counsel here 286 notifies complainant's counsel that he is willing for all objections to be briefly stated and the argument reserved for the Court, who alone has authority to pass upon them.)

(Complainant's counsel notifies defendants' counsel that interrogatories incorporating arguments in reference to the arrangements proposed between the State of Tennessee and its creditors, not participants in this litigation, compel him to 287 adjust his objections accordingly.)

(Defendants' counsel, without arguing the argumentativeness of his questions, respectfully requests complainant's counsel that he will allow his client either to decline to answer or to answer, so that the examination may proceed, as defendant desires to have some time to get ready upon the motion that is threatened.)

288 A. Some of the Tennessee papers use such arguments but not at our instigation.

198×Q. Is it not one of your objects in pressing an immediate hearing of an application for a receiver or of the trial of the cause before the election can be held, to make some capital out of some incident that may occur upon such application that will aid in defeating the compromise now pending before the people of Tennessee?

> (Objected to because it assumes a fact, the contrary of which is the case, namely, that the bondholders are seeking a hearing on account of the election, whereas, it is the railroad companies that have obtained orders, the effect of which is to delay a hearing beyond the election.) 289

A. I say most emphatically, that I am pursuing the same course in reference to these suits that I would have pursued had there been no State compromise pending in Tennessee. 290

199×Q. Do you think that, but for said election, you would have required the Court and counsel to go from a cool pleasant climate into such a place as Nashville will be on the 26th of July, to argue a motion for a receiver over a railroad, which is ample security for debts which you claim, irrespective of the solvency of the companies that may now be in control thereof?

> (Objected to because it assumes that there is any desire on the part of complainant to compel a hearing in Nashville when the complainant is willing to have a hearing elsewhere.) 291

A. I again say most emphatically that I am not influenced in the trial of the causes by the State Debt Compromise pending in Tennessee; I would not receive such compromise bonds should the compromise be carried.

200×Q. My question referred to a motion for receiver and not to the trial of the causes? Please answer as to the motion for receiver? 292

> (Objected to because it assumes incorrect grounds for the application for a receiver—— that the application is based upon the non-existence of security, whereas it is based upon the consumption of revenues in such manner as to prevent complainant from promptly realizing the benefits of a decree for his overdue interest.)

293 (Defendants' counsel again protests against the dilatory character of the objections interposed by complainant's counsel, as the petition filed will show the grounds of the application.)

A. I would have made the same motion for a receiver had there not been any State Debt Compromise pending.

201×Q. Why did you not ask for a receiver of these roads when you first filed your bills or at the first term of the Circuit Court at Nashville which met on the 294 third Monday in April, 1879?

(Objected to because it assumes a knowledge of an expert on the part of complainant as to the proper time to make motions in course of litigated proceedings.)

A. My counsel is present and better qualified to answer that question than I.

295 (Defendants' counsel will move to suppress this deposition because in this instance and in many others that have previously occurred, the objections of complainant's counsel, whether so intended or not, have indicated to the complainant the answer he should make to the question asked him, and in other instances have had the effect to keep the complainant from giving any answer at all to questions, which, whether competent or not, did not tend to expose the witness 296 to any pains, penalties, forfeitures, criminal prosecution, nor to degradation or disgrace, whereby defendants are deprived of an opportunity to argue before the Court the competency of such testimony as the answers, if given, may have afforded.)

(Complainants' counsel replies to this argument: first, that only at a very late stage of this deposition did the defendants' counsel announce

that he was taking testimony for the purposes 297
of the motion for receivership and other motions. All complainant's objections previous to this declaration are to be treated in the light of the pleadings. Complainant has not required a separate deposition for the motions, being actuated by desire to facilitate the progress of the cause. But he does not waive the binding force upon the defendants of the testimony of the complainant, whom they have examined as their own witness. The same position is taken 298
in reference to new matter, which may be claimed to belong to cross-examination. Complainant is unable to except to the general charges in regard to the portions of this examination preceding the last question, until defendant indicates the objections in respect of which he last addressed the Court. Complainants' counsel has distinctly objected to answers to many of the questions, and has not done so in respect of the question now propounded to the witness.) 299

(Defendants' counsel does not understand himself as having announced that he was taking testimony for the purposes of the motion for receivership. He reserves the right to show that there has been no valid service of any notice of any such motion and to object upon all grounds of jurisdiction. And it is only because the notice that was served upon defendants' counsel stated the application would be heard 300
upon the pleadings and proceedings, of which he supposed it would be claimed that this deposition was a part, that he has asked the questions which he thinks will be material, if the Court should rule upon argument that service of notice upon defendants' counsel here in New York is good service upon a corporation whose chief office is in Tennessee, and if Justice Strong, before

301 whom the motion is cited, should be of the opinion that he has jurisdiction to entertain it. If anything appears in the previous part of this deposition which would seem to bear a broader construction, the defendants' counsel now and hereby distinctly notifies complainant and his counsel, both of whom are present, that the action of defendants' counsel is intended to be restricted to the elements specified in this memorandum.)

302 202×Q. Is it not a fact that the counsel of these defendants met one of your counsel in the Maxwell House, at Nashville, Tennessee, on Sunday morning next after these bills had been filed and asked him if it was his intention to apply at that time for a receiver over either of these roads, and if he did not reply that he did not at that time expect to ask for receivers over any of the roads, unless it should be in the case of some of the insolvent roads such as the Mobile & Ohio.

A. I do not know such to be a fact, though I do not 303 deny the statement; my counsel now informs me that such was the case.

203×Q. I understand you to have previously declined to give me the names of any persons who have signed "Defendant's Exhibit No. 1, July 11, 1879;" please give me the names of all the persons you know to be holders of the Tennessee bonds, who have not signed said Exhibit; I embrace in this question all of such persons as you have heard said that they held bonds of Tennessee?

304 A. I again decline to give information as to questions bearing directly or indirectly on the affairs of the committee of Tennessee bondholders.

204×Q. I expressly refrain from inquiring into the affairs of that Committee; as I understood you before to regard it as a sacred and secret organization; but I did not suppose you would object to speaking of those who have not the honor of a membership in that close corporation; will you now answer as to those holders of Tennessee bonds who are in no wise connected with said committee? 305

A. I must decline to answer in regard to them also.

205×Q. Why do you decline; do you suppose that any one who is the honest holder of a bond would object to your stating that he was such?

A. For the very good reason that I have no right to make their affairs public without their consent; understanding as I do that some *bona fide* holders of Tennessee bonds are actually unwilling to publicly acknowledge their ownership of such. 306

206×Q. And do you not further know that it would not suit *your* present purpose to disclose the name of one of these bondholders who is unwilling to let the fact be known?

A. Such is more positively not the case; on the contrary, as far as my own interest and purpose are concerned I would have no objection in stating the names of all that have or have not assented to the circular of the Committee of Tennessee bondholders. 307

207×Q. I am not now inqiring about those who have assented to said circular; and I further ask if it would not very seriously interfere with the purposes and projects of your Committee to divulge the name of a certain holder of Tennessee bonds, who has been induced not to sign the agreement, for the reason that it is believed by your committee that it would be better for him at present not to be connected with them?

(Complainant's counsel requests defendants' counsel to state to whom he refers.) 308

(Defendants' counsel reserves his right to state this when he takes his proofs.)

A. I cannot possibly conceive how the mention of any bondholder's name would in the least interfere with the purposes of the Committee or myself.

208×Q. Has there ever been or is there now any dif-

309 ference in price in the New York Stock market between the bonds of Tennessee loaned to railroads, and those issued to build the Capitol, purchase the "Hermitage" or for other ordinary State purposes; if so please state the difference?

A. Owing to the manner in which the bonds are called at the Stock Exchange there is necessarily no differences; but upon the open market where Tennessee loan bonds are mostly bought and sold there is a marked difference; I should say from two to five per cent.
310 in limited transactions.

209×Q. How long has this difference existed even in the open market?

A. Well, I should say within two years.

210×Q. Has there ever been, or is there now any difference in the New York stock market between the bonds of the State of Tennessee loaned to solvent and important trunk lines like the Louisville & Nashville Railroad and those loaned to insolvent branch roads, like the McMinnville & Manchester and the Winchester
311 & Alabama?

A. I apply the same answers as to cross-questions 208 and 209.

211×Q. What is the difference now on the New York Stock Market between bonds of the State of Tennessee that were loaned to any certain railroad before the late war and those that were loaned by the State to that railroad after the war, they being known on the stock board as "old" and "new" bonds?

A. At present I should say the difference was not
312 more than two to three per cent.

212×Q. What was the greatest difference that obtained between these two classes of bonds upon the New York Stock Market between the first of the year 1869 and the last of the year 1871?

A. I could not say; I had little if any acquaintance with the stock market in those years.

213×Q. Will you please refer to such reliable data

as are accessible to you here in New York, and give me 313
such information?

(Defendant withdraws this question, it being stipulated between counsel that any authentic certificate as to the price of Tennessee State bonds at any relevant period may be admitted without formal deposition to be filed in these causes.)

214×Q. What is the difference between the price which the bonds of Tennessee loaned to railroads bore 314
in the New York Stock Market when these suits were commenced, and the price which such bonds bear now?

A. I could not state accurately; but I should say that they are several per cent. lower--say three to five per cent. than they were when these suits were begun; very good evidence that any pretended bull movement has not been successful.

215×Q. Is it not a fact, that before the railroads of Tennessee began to buy State bonds in the New York Market to pay off their debts to the State, say for instance 315
in December, 1869, Tennessee bonds were quoted as low as 40½ cents, while in March, 1874, they sold as high as 90½?

A. I do not recollect, but I do not deny the statement.

216×Q. Have you ever applied to any Governor of the State of Tennessee to appoint a receiver to take charge of and operate either of these railroads upon the ground that the interest upon the State bonds loaned to them was in default; have you ever applied to any 316
Court for such receivers prior to the institution of these suits?

A. I have not.

217×Q. Did any railroad receivers of Tennessee appointed under the Internal Improvement Law of that State ever pay to you or to any other bondholder to your knowledge any interest upon bonds which had

317 been loaned by the State to the railroads under the receiver's control?

A. Not to my knowledge.

218×Q. Did you or any other bondholder so far as you know ever attempt to hold any of such Receivers or their sureties responsible for funds collected by them in the operation of the railroads upon which you claimed to have liens?

A. Not that I am aware of.

219×Q. Is it not a fact that Receivers were allowed 318 to remain in control of many of the railroads of Tennessee for considerable periods of time, the property in their charge continually depreciating, with no attempt on the part of the bondholders to see to its preservation?

(Complainant's counsel objects to all questions in relation to the Receiverships unless it is shown that these roads were in the hands of the Receivers.)

319 A. I do not know, though I do not deny the assertion.

220×Q. Have you or those under whom you claim ever funded new bonds of the State of Tennessee, any of the unpaid coupons or bonds, which you claim to be a lien upon railroads?

A. I have no recollection of ever funding any Tennessee coupons; my father funded coupons of Tennessee bonds which he then owned, but I do not know whether I own those bonds now or not; my father gave me all 320 his Tennessee bonds before he died.

Adjourned by consent to July 12th, 1879, at 10 A.M.

July 12, 1879, 10 A. M. 321

Complainant's solicitor notifies defendants' solicitor that for the purpose of securing a hearing of the causes within a reasonable time, to wit: at or about the time when the period for taking testimony in these causes will have expired under the rules of the Supreme Court of the United States, namely, on or about the 26th of July, 1879, complainant will, subject to the exceptions hereinafter set forth, admit the matters of fact, 322
but not the conclusions of law nor the inferences and deductions and constructions set up in the answers of the defendants.

This offer is to be taken subject to all right of exception and objection on the part of the complainant to the relevancy, materiality or any other ground of legal objection to the matters of fact set up in the answers.

The matters hereby admitted are also to be sub- 323
ject to any weight of testimony which may be attributed to the following executive and legislative documents of the State of Tennessee.

Acts of the Tennessee Legislature in reference to the Louisville & Nashville Railroad Company and the other corporations.

The circular of the fiscal agent of the State of Tennessee issued in 1868 by Samuel Watson.

The message of Gov. Brownlow to the Legislature of Tennessee in 1868. 324

Extracts from the reports of the Comptrollers of the State of Tennessee, several of which reports are referred to in the answers.

The report of the joint select committee of 1857–8 to investigate the offices of the Comptroller and Secretary of State.

The inaugural message of Gov. Marks of Tennessee, referred to in the cross-examination.

325 It is also, of course, subject to any testimony already taken.

This stipulation is intended to relieve the defendants from the necessity of taking oral testimony to prove any matters extrinsic to the Statutes and public documents of Tennessee. But it is not intended to effect the proof taken of complainant's ownership of bonds nor of the other matters contained in his direct examination.

It is intended to confine further proof in these 326 causes to authenticated copies of Statutes and public records.

Complainant further notifies defendants that authenticated copies of the General Internal Improvement Law and the other acts and documents referred to in his notice of resting have been filed with the Clerk of this Court.

Complainant further offers to stipulate that all other Statutes may be read from the printed volumes 327 containing the imprint of the Secretary of State's certificate, and the executive and legislative documents from the printed volumes published in the usual official form.

The foregoing offer is intended to secure the hearing of these causes by a Justice of the Supreme Court of the United States, and to avoid the delays which would preclude such hearing during the vacation of that Court. If, for any 328 reason, such hearing should be prevented, this offer is subject to revocation by the complainant.

Complainant's counsel, in view of the fact that defendants' counsel proceeds with the examination of the witness, requests defendants' counsel to state in what respect the above offer is unsatisfactory, and complainant hereby offers to make the said stipulation more specific in respect 329 of any and all facts set up in the answer, it being complainant's object to admit the said matters of fact for the purposes of said hearing.

Defendants' counsel regards said memorandum as matters unknown to the practice of this Court, and proposes to do as complainant has done to prepare his case for trial with all due diligence, but in strict accord with the usual practice of the Court and the rules and orders heretofore 330 made in these causes.

Complainant's counsel further offers to expunge from the record the witness's cross-examination, if claimed by defendants to interfere in any manner with the execution of the above stipulation, complainant being precluded from making the same offer in reference to the direct examination, on account of the denials in the answers of complainant's ownership of bonds. 331

Cross-examination resumed:

221×Q Are not the bonds issued by the Louisville and Nashville Railroad Company, and called by them "first mortgage bonds," amounting to several millons of dollars, above par in the New York market to-day?

A. Bonds called by the Louisville and Nashville Railroad Company "first mortgage bonds" are quoted above par.

222×Q. Are not the bonds issued by the Nashville 332 and Decatur Railroad Company, and called by them "first mortgage bonds," amounting to over two million of dollars rated at par or above?

A. I understand that such is the case.

223×Q. When did you first become aware of the fact that certain bonds of the State of Tennessee had been issued to these particular railroads, and how did you get that information?

(Objected to as immaterial.)

333 A. Within three years, and through the State Comptroller's Reports.

224×Q. When did you first claim or assert that you had a lien upon either of these roads?

A. Within three years.

225×Q. When did you first notify either of these defendants that you claimed a lien upon their property and the amount that you claimed?

A. When I filed the bills.

226×Q. When did you first hear that the Nashville
334 and Decatur Railroad Company had, as they claimed,
paid off their debt to the State in bonds of the State;
I, of course, understand you as denying that it had any
validity as against your rights, my question being when
you heard of the fact?

A. I should say within three years, not before that time having read the Statute or examined the question.

227×Q. When did you first hear of the fact that the
Tennessee railroads through brokers or agents here in
335 New York were trying to purchase bonds of the State
of Tennessee, with a view of making such payments to
the State?

A. It must have been much longer than three years since I heard so.

228×Q. Could you fix the date somewhat more definitely upon reflection?

A. Within ten years.

229×Q. When did you first hear that the State of
Tennessee had filed a bill against the delinquent roads
336 of that State to have them sold for what the State
claimed as debts due to the State?

A. I should say within three years.

230×Q. Have you ever taken any steps by appeal, writ of error or bill of review to reverse the decrees of the Chancery Court at Nashville, declaring that the lien upon the railroads of Tennessee under the Internal Improvement Law belonged to the State and not to the bondholders?

A. That, of course, does not refer to anything in the 337
bills.

231×Q. I ask by writ of error, bill of review or appeal?

A. I have not, not being aware of such facts until recently.

232×Q. Of what State were you a resident or citizen in the years 1870, 1871 and 1872? Were you a resident or citizen of the State of Tennessee?

A. I was a citizen of New York, and not a citizen or
resident of the State of Tennessee. 338

233×Q. Is it not a fact that you or your co-committeemen of the Tennessee bondholders are attempting by publications and private advice to dissuade bondholders of the State of Tennessee from accepting the compromise that is now pending before the people of that State?

A. The committee have issued a circular advising their constituents not to accept, but have made no other special exertions to my knowledge.

234×Q. Did you ever enter any protest against the 339
authority assumed by the State of Tennessee from time to time to cancel or destroy the bonds which the railroad companies now sued by you had paid into the sinking fund provided for by the Internal Improvement Laws of that State?

A. I have not; I was not conversant with Tennessee affairs at the date you name.

235×Q. Did you or did any other bondholder of Tennessee, to your knowledge, ever enter any protest
against the action of the State of Tennessee in releas- 340
ing the railroads of that State from their debts?

A. The right of Tennessee to do so was discussed and denied to my knowledge as far back as 1870; I think, when Messrs. Davis & Davies gave an opinion to the contrary.

236×Q. Was said opinion of Davis & Davies brought to the attention of the authorities of Tennessee so far as you know or believe? If so, when?

341 A. I do not know; I was not then conversant with Tennessee affairs.

237×Q. You were aware, then, as early as 1870 that the railroads of Tennessee claimed the right to pay their debts to the State, and that the lien belonged to the State and not to the bondholders?

A. No, sir; I have obtained that information since.

238×Q. Did you not see Davis & Davies' opinion at or about the time it was being circulated in New York?

342 A. No, sir, not till within three years, I should say.

239×Q. Were you not a holder of Tennessee bonds in 1870, and interested in these liens?

A. I could not say that I was.

240×Q. Did you ever enter any protest against the action of the State of Tennessee in selling out the delinquent railroads to pay the debts which the State claimed to be due to her and not to the bondholders?

A. No, sir. because I was not aware of the facts until
343 quite recently.

241×Q. Are you to be paid or allowed by any of the other persons who have agreed to come in to these suits any compensation or percentage over and above what you may be entitled to on your own bonds and coupons. If so, what?

A. Most assuredly not; these are my own individual suits.

Defendants' counsel closes his *cross-examination.*

344

Re-direct examination resumed by complainant's counsel.

242×Q. What is your birthplace?

A. Brooklyn, New York.

243×Q. How many years last past have you been a resident of the City of New York?

A. I should say more than ten years.

244×Q. How long have you been a holder of Tennessee bonds? 345

A. I should say more than five years.

245×Q. Did not one of the counsel for the defendants notify one of your counsel that he would serve him with a notice of motion to extend the time of hearing of these causes until such period after the State election as would include the time that might be limited for the Tennessee bondholders to accept the State settlement?

A. I understood that some such notice of motion 346 would be served.

246×Q. You heard what transpired here yesterday in regard to it?

A. Yes, sir.

247×Q. And is that substantially what you understood?

A. I so understand.

248×Q. Were you present yesterday when one of the counsel for the complainant inquired of one of the counsel for the defendants whether and when he would 347 serve him with said notice?

A. I was.

249×Q. Did the counsel for the defendant reply that he had concluded not to serve the notice?

A. I understood him so to say.

(Complainant's counsel here renews the offers to stipulate previously made.)

(Complainant's counsel further offers to stipu- 348 late that the following matters set up in the answers are true:

In 1852 the taxable property of Tennessee was $177,420,305. The debt of the State then amounted to only $3,992,856.66, and the rate of State tax was only 11½ cents on the hundred dollars; the six per cent. bonds of the State were, as respondents are informed, at par, and she had

349 never defaulted upon any of her obligations.
There was no difference in the money market
between the price of the bonds loaned to
railroads and those issued by the State to raise the
capital of the Bank of Tennessee or to build her
State house. Nor was there any difference in
price between the bonds loaned to the most
valuable railroads and those loaned to the most
worthless. Respondents kept no record of the
numbers, dates or series of the bonds issued to
350 them, and have no knowledge, information,
remembrance or belief in regard thereto. The
proceeds of these bonds were applied as directed
by the laws under which they were loaned to
railroads.

The Comptrollers' reports show that the
Sinking Fund Commissioners credited each railroad
company with the annual amounts paid in, but
in their investment thereof selected any bonds
of the State that were offered for sale. Thus,
351 from the Comptroller's report of 1859 (page 59),
it seems that the Tennessee and Alabama
Railroad Company paid to the Treasurer $6,400,
which was invested in one bond endorsed by the
State for the East Tennessee and Georgia
Railroad Company, four State 5¼ per cent. bonds,
and three State five per cent. bonds. Not one of
the bonds purchased with the money paid in by
that company had ever been issued to it. The
idea of the State at that time was to pay the
352 interest on all the bonds that were paid into the
railroad sinking fund, and that the accumulation
would be so rapid as to certainly raise a fund
that would pay the bonds by their maturity.

In the Comptroller's report of 1859, p. 60, he
states that $82,840.95 paid in by the railroads
therein named, invested with accrued interest,
had purchased bonds amounting to $109,750,
which paid an annual interest of $6,417.50, or
7¾ per cent. on the investment.

The State had loaned her own bonds to some of her Internal Improvement Companies; she had endorsed the bonds of some of the other companies, and has issued her own bonds to pay for her State house, and for other purposes. The result was that she had several different series of bonds issued under the different laws and maturing at different times. Series A were five per cent. bonds issued under Act of 1838, maturing in thirty years. They were issued principally to pay for stock subscribed by the State in various turnpikes and railroads, and aggregated $1,893,000. Series B were known as "White bonds, six per cent., issued under the Act of February 11th, 1852." Numbers 1 to 7,908 of this series mature in 1892, while numbers 7,909 to 11,806 do not mature until 1898. This series aggregated $11,806,000. Series C were also known as "White bonds, six per cent., issued under the Act of February 11th, 1852," and due in 1898. This series aggregated $1,878,000. Series B & C represented the State bonds loaned to the various railroads under the said Act of February 11th, 1852, before the war. Under the Act of March 20th, 1860, to illustrate, the East Tennessee & Virginia Railroad Company paid in fifteen of their own endorsed bonds and two regular State bonds; the Memphis & Charleston Railroad Company paid in sixteen State bonds and $2,960 in cash. The Memphis & Ohio Railroad Company paid in six State bonds; and so have the McMinnville and Manchester Railroad, and the Tennessee and Alabama Railroad.

353
354
355
356

Down to the late war, and though the various Acts of the Legislature and the reports of the Comptroller and of the Sinking Fund Commissioners were all public, no bondholder was ever heard to protest against the authority assumed by the State or against the cancellation

357 and destruction of the securities which the companies had
paid into the Sinking Fund. No bondholders ever pre-
sented a State coupon to any railroad company for pay-
ment. No Tennessee Railroad Company had any banker
or other correspondent in New York to pay the coupons
on the State bonds loaned to it. No company ever re-
tained in its possession the coupons that had been paid on
the bonds loaned to it. Few, if any, of the companies kept
any memorandum of the numbers of the bonds issued to
358 them.

As long as the Bank of Tennessee was in operation it
was regarded as the Fiscal Agent of the State. All of its
directors were appointed by the State, they were required
to report to the State, and were constantly kept under its
control. The State Treasurer kept none of the State Funds
in his own hands, but deposited all the revenues of the
State in the Bank of Tennessee, and could only check for
the same on checks countersigned by the Comptroller.
359 The Bank of Tennessee paid the interest on all the State
bonds, without reference to the purpose for which they
were issued. This is shown by the report of the Comp-
troller to the Session of 1851–2, when the general Internal
Improvement Law was passed. (See his report, page
65). The Merchants' Bank of New York and the Bank
of North America of Philadelphia, were the correspondents
through whom the Bank of Tennessee paid the interest
on the State debt. These correspondents would
360 return the coupons to the Bank of Tennessee, by whom
they were returned to the State. There was one
account on the books of the Bank of Tennessee headed
"Treasurer of Tennessee," which was credited by the
revenues of the State deposited by the Treasurer, and by

the dividends derived from the State's stock in 361
the bank, and the various Internal Improvement Companies mentioned above, and was debited by the interest on the entire State debt paid by the Bank of Tennessee and by such other sums as were drawn by the Treasurer under appropriations made by law. There was also an account on the books of the Bank of Tennessee, headed "Interest paid on State Bonds," the object of which was to show the exact amount
paid on that account, but it shows nothing as to 362
whom, or for what purpose, the bonds were issued upon which such interest was paid. There was also an account headed "Railroad Companies, for interest," showing the amounts and dates of all payments into the bank by the different companies, but it does not show that the payments were to be appropriated to the interest upon any particular bonds of the State; nor did the bank, in fact, know what bonds had been is-
sued to any named railroad. The funds paid in 363
by all the railroads were thrown together as a whole and transferred either to the Treasurer's general account or the account headed "Interest on State Bonds," which was but a sub-account of the Treasurer's and under his control. The moneys paid in by the railroads were sent with other funds to New York and Philadelphia, where they were paid out by the correspondents aforesaid upon coupons of the State, making no dis-
tinction between the different bonds of the State. 364
These correspondents kept no accounts with the railroad companies and had no idea as to whom the bonds were issued, the coupons of which they were paying.

In the treasurer's books and account was headed "Bank of Tennessee," the reverse of the account kept under his name at the bank. There is an account headed "Interest on Capitol

365 Bonds," in which is shown the interest paid on
the bonds issued to pay for the State house.
There is also an account headed "Interest on Internal Improvement Bonds." It shows the gross
amount paid out on such bonds, but it does not
show by whom the money was furnished, nor does
it show the number or character of the bonds on
which the interest was paid. There are no separate accounts with the different railroads to be
found on the Treasurer's books. With the ex-
366 ception of the distinction between Capitol and
Internal Improvement bonds, the Treasurer made
no difference between the various bonds of the
State, but treated as all equally the obligations
of the State.

The interest on the bonds loaned to respondents was not paid after July 1, 1861. And though
the United States Circuit Court was open in Nashville, after its capture by the United States Army
in February, 1872, no bondholder ever claimed
367 the right to a receiver for non-payment of interest.

The copies of the resolution and report attached as Exhibits A and B to the answer are
admitted to be correct copies. They were published in the acts and journals of that session.
And no one ever controverted the right of the
State to make the settlement until this bill was
filed.

The Louisville & Nashville Railroad Company
368 on April 8th, 1868, executed a mortgage or trust
deed, duly registered, upon its main stem and
branches, to James Punnett and Julius B. Alexander, citizens of the State of New York, to
secure an issue of eight millions of dollars bonds,
of which $7,070,000, are now outstanding in the
hands of holders for value. The said Punnett
has since died, and John R. Smith of Louisville,
Kentucky, has been substituted as trustee. On

November 1st, 1873, said company executed 369
another mortgage or trust deed, duly registered,
conveying the same property and also the Mem-
phis & Ohio and the Memphis, Clarksville &
Louisville Railroads to Henry F. Vail, a citizen
of the State of New York, and John B. Smith,
of Louisville, of Kentucky, to secure an issue o
four million dollars of bonds, of which two
million are now outstanding in the hands of
holders for value. In March, 1865, the bonds of
the State of Tennessee were of the market value 370
of fifty cents, but in December, 1865, they were
at 92 cents in the dollar, as stated by the *Finan-
cial Review* of New York. The Nashville &
Decatur Railroad Company created by the con-
solidation of the Tennessee & Alabama Railroad
Company and the Central Southern Railroad
Company in March, 1871, paid to the State of
Tennessee $2,368,176, in bonds of the State. Said
company had raised the money by the bonds
paid in by them, by mortgaging the road for 371
$2,100,000, in 1870, and selling the company's
bonds in the New York market. None of the
State bondholders attempted by any legal pro-
ceeding to assert any rights in opposition to the
course which that company was pursuing. And
respondents leased said Nashville & Decatur
Railroad in May, 1871, agreeing to pay $2,450,000
of the debts of said company, and an annual six
per cent. dividend upon its capital stock of
$1,512,184.11, and in addition to all this, re- 372
spondents have spent $ over and
above their receipts in the repair and operation
of said road.

On May 25th, 1871, the Memphis & Ohio Rail-
road Company paid the State of Tennessee
$2,468,376.50 in bonds and coupons of the State.
On the 1st of June, 1871, siad Memphis & Ohio
Railroad Company mortgaged its road for

2902

373 $3,500,000 of bonds which had passed into the hands of holders. No State bondholder having made any complaint, the Louisville & Nashville Railroad Company consolidated with said Memphis & Ohio Railroad Company, endorsed said $3,500,000 of bonds, and have since expended $ over and above their receipts in the repair and operation of said road.

In January, 1871, the State of Tennessee filed its bills in the Chancery Court against the Memphis, Clarksville & Louisville Railroad Company, 374 to whom said bonds had been loaned. The State bondholders have never sought to review or to reverse said decree. On August 1st, 1872, respondents placed a mortgage on said road for $2,475,000 of bonds which respondents endorsed, and which have passed into the hands of holders for value. Respondents have also expended $ over and above their receipts in the repair and construction of said road. 375 With the exception of some interest paid in 1867-8, and some paid in 1874-5, the State of Tennessee has paid no interest since the commencement of the late war, and the remainder of the interest has all been funded into new bonds of the State, except that which matured since January 1st, 1876, and it has neither been funded nor paid.

In addition to the above stipulation, which covers the Louisville & Nashville case, complainants 376 offer to stipulate for the correctness of the following facts stated in the answers to the bills filed on account of bonds issued to the Tennessee & Alabama Railroad Company and the Central Southern Railroad Company.

The Nashville & Decatur Railroad Company and the original companies forming the consolidation owed the State $2,368,176. They met their interest in January, 1869, but fell behind $15,955.26 on their interest for July, 1869.

This authorized the State to appoint a receiver; and experience had taught that in every instance these political receivers had run the roads down, without ever reducing the indebtedness. 377

In October, 1869, the debt of Tennessee was $37,590,027.08, of which about $30,000,000 were for bonds loaned to railroad companies, with funded interest thereon. The State's bonds ranged in New York in 1869, from 70 cents in January to 40½ cents on the dollar in December, there being no distinction between bonds loaned to railroads 378 and any other bonds. There is a proviso in the Act of January 20th, 1870 (Acts of 1869-70, page 61), as printed, that it shall not be so construed as to allow the payment and satisfaction of debts created by bonds issued by the State, and upon which the State is secondarily liable. And it has been insisted that the State was only secondarily liable upon her bonds issued to the railroad companies.

By reference to the House Journal (1869-70, 379 page 326), it will be seen that reference is made in this connection to the word "endorsed."

On July 1, 1870, the Nashville & Decatur Railroad Company executed a mortgage or trust deed upon their railroad property, rights and franchises, conveying the same to Philo C. Calhoun, Richard T. Wilson and Adrian Iselin, all citizens of the State of New York, to secure first mortgage bonds to the amount of $2,100,000, issued and negotiated to raise the money to buy 380 the State bonds to pay the debt due from said company. Said mortgage was duly executed and registered. The bonds are now outstanding in the hands of holders for value.

The State Comptroller in his report in 1869, page 50, suggested to the Legislature the propriety of selling a sufficient number of the railroads for bonds of the State, to lessen the State's

381 liabilities eight or ten millions of dollars, he be-
lieving with such reduction the State's liabilities
could be regularly and certainly met. His re-
port in 1867 (page 67) shows that the railroads
then owed $800,000 for interest due July 1st,
1867, which the State had paid for them on the
bonds loaned them. The comptroller in his re-
port for 1867 states that the records of his office
show that from the railroads then in the hands
of receivers scarcely a dollar had been received
382 during the past fiscal year (page 13). If the
State had forced a sale of all the delinquent rail-
roads so large an amount of such property
thrown upon the market, in the depressed finan-
cial condition of the country, would have sacri-
ficed alike the interest of the companies and the
State, but by allowing the companies to pay
their debts in any of the bonds of the State, and
giving them a reasonable time in which to get
the bonds, they were enabled to procure them at
383 reasonable rates, and by reducing the aggregate
debt of the State they increased the ability of the
State to pay, and by the reduction of her debt,
through the sale of the railroads, the bonds of
the State which were quoted as low as 40½ in De-
cember, 1869, were quoted as high as 91¼ cents
on the dollar in March, 1874, at the New York
Stock Exchange.

An elaborate opinion was written by Colonel
Pryor which was concurred in by the Hon. E. H.
384 East of Nashville, who was then and is now one
of the most eminent lawyers of Tennessee. The
object of asking the opinion was not to satisfy
said company, but to place the question fairly
before the money markets of the world, where
said company was trying to raise the means to
buy the bonds to pay off their debt to the State.
Respondents knew nothing of any opinion of
New York counsel to the same effect that was

published at or about that time. It is true that 385
the transaction in all its entirety was fully understood by said company, and they supposed it was also understood by the purchasers of the new bonds, as the legislation under which they were issued was referred to in the mortgage, and the opinion of Colonel Pryor was published to give information on the subject. Said company acted upon the advice of counsel.

The foregoing offer is for the purpose of ob- 386
taining the hearing as stated in the previous offer, and is subject to revocation if the said hearing is not obtained.

The foregoing stipulation is believed by complainant to cover all the matters of fact which are set up in the answers. The admissions of the answers, except the references to the Statutes of Tennessee stand without reference to this stipulation. 387

Complainant, as a part of this stipulation, and in corroboration of the resting of the case already filed and notified, waives all such portions of the bills in these causes as have not been proved, and the replications heretofore filed are to be taken subject to this offer.

Complainant further notifies defendants that upon the records already existing in these causes
and upon this deposition, including this offer, 388
he will be ready to proceed with the trial of these causes on the 26th of July current. Complainant also renews the offer for the proof and reading of the Statutes and public documents of Tennessee as specified in the previous offer.

Complainant is also willing that defendants may expunge the cross-examination of complain-

389 ant if they deem themselves in any way obliged to rebut the same.

To all of which defendants' counsel replies as he has heretofore replied.

CALVIN AMORY STEVENS.

Subscribed and sworn to before me }
this 12th day of July, A.D. 1879. }

WILLIAM H. DELANCEY, [L.S.]
Notary Public,
390 Westchester County.

Acting in New York County under and by virtue of Chapter 807 of the Laws of 1873, of the State of New York.

391

392

Defendant's Exhibit No. 1. 393

July 11th.—W. H. D'L., *Notary Public.*

To the Committee of Tennessee Bondholders:

I hereby assent to the Plan and Conditions of the Committee's Circular of May 17th, 1879. 394

LIST OF BONDS.

COLOR.	LETTER.	NUMBERS.

395

Defendant's Exhibit No. 2.

July 11, 1879.—W. H. D'L., *Notary Public.*

Office of COMMITTEE OF TENNESSEE BONDHOLDERS, 396
No. 31 Nassau Street,
P. O. Box 936. NEW YORK, July 3d, 1879.

To the Holders of Tennessee Bonds:

The Committee beg leave to inform you that the suits for the enforcement of the liens of Tennessee Bonds, on the railroads to which they were issued, will be heard

397 by the Court in the course of the next few weeks, and that Mr. Justice Strong, of the Supreme Court of the United States, will preside at the trial of the causes Upon representation that some of the Bondholders, who desire to avail themselves of the Committee's action for the enforcement of the railroad liens, were absent or for other causes were prevented from assenting thereto within the time limited in the previous circular, the Committee feel it incumbent on them to extend the time of uniting in the suits, upon the original terms, to
398 wit: One Coupon and Five Dollars in cash per lien bond, until July 20th, current. But after that date the Committee will not receive assessments.

Thereafter the Committee will consider themselves absolved from all responsibility toward non-assenting holders of lien bonds, and will not protect their interests in the course of the legal proceedings or in any other arrangements growing out of them.

EUGENE KELLY,
Chairman.

399 THOMAS G. ROBINSON,
Secretary.

Defendants' Exhibit No. 3.

July 11, 1879.—W. H. D. L., *Notary Public.*

400 FINANCIAL.

Office of COMMITTEE OF TENNESSEE BONDHOLDERS,
No. 31 Nassau Street,
P. O. Box 936. NEW YORK, July 3d, 1879.

To the Holders of Tennessee Bonds:

The Committee beg leave to inform you that the suits for the enforcement of the liens of Tennessee Bonds, on the Railroads to which they were issued, will be heard by the Court in the course of the next few weeks, and that Mr. Justice Strong, of the Supreme Court of the United States, will preside at the trial of the causes. Upon representation that some of the bondholders, who desire to avail themselves of the Committee's action for the enforcement of the railroad liens, were absent or for other causes were prevented from assenting thereto within the time limited in the previous Circular, the Committee feel it incumbent on them to extend the time of uniting in the suits, upon the original terms, to wit: One Coupon and Five Dollars in cash per lien bond, until July 20th, current. But after that date the Committee will not receive assessments. 401 402

Thereafter the Committee will consider themselves absolved from all responsibility toward non-assenting holders of lien bonds, and will not protect their interests in the course of the legal proceedings or in any other arrangements growing out of them.

EUGENE KELLY,
Chairman. 403

THOMAS G. ROBINSON,
Secretary.

404

405 **Complainant's Exhibit No. 4.**

July 10, 1879.—W. H. D. L., *Notary Public.*

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

---

406 CALVIN AMORY STEVENS, on behalf of the holders of Tennessee bonds, issued to the LOUISVILLE & NASHVILLE RAILROAD COMPANY,

versus

THE LOUISVILLE, NASHVILLE & GREAT SOUTHERN RAILROAD COMPANY *et al.* 407

In Equity.

THE SAME, on behalf of the holders of Tennessee bonds, issued to the CENTRAL SOUTHERN RAILROAD COMPANY,

versus

408 THE NASHVILLE & DECATUR RAILROAD COMPANY *et al.*

In Equity.

409

THE SAME, on behalf of the holders of Tennessee bonds issued to the TENNESSEE & ALABAMA RAILROAD COMPANY,

versus

THE NASHVILLE & DECATUR RAILROAD COMPANY *et al.*

In Equity.

410

Sir :—Please take notice that the complainants in the above-entitled causes rest their cases upon the proof of the Acts of the Tennessee Legislature, passed 11th February, 1852, entitled an Act to establish a system of Internal Improvement on 21st February, 1852, entitled an Act to authorize the renewal of certain bonds of the State of Tennessee, and on February 8th, 1854, entitled an Act to amend an Act, passed 11th February, 1852, entitled "An Act to establish a system of Internal Improvement in this State" Also the statutory receipts of the three several railroad corporations above named, to which the Tennessee Internal Improvement bonds were issued and the evidence of ownership of these bonds by the complainants. 411

This notice is given for the purpose of expediting the hearing of these causes, and without conceding in any manner the validity or propriety of the order made in reference to an extension of time for the taking of testimony herein, as to which all complainants' rights are reserved. 412

Dated June 28th, 1879.

E. L. ANDREWS,
GEORGE HOADLY,
Solicitors for Complainant.

413 [Endorsement.]

Produced before me by complainant's counsel on examination of Calvin A. Stevens, July 10th, 1879, to be annexed to the deposition of said Stevens.

W. H. DE LANCEY,
Notary Public.

414

CERTIFICATE.

UNITED STATES OF AMERICA.
SOUTHERN DISTRICT OF NEW YORK. } ss:
State and County of New York.

I, WILLIAM H. DELANCEY, a Notary Public in and for the State and County aforesaid, and duly commissioned and qualified under the laws of the United
415 States to take depositions for use in the Circuit Courts of the United States, do hereby certify that the reason for taking the foregoing deposition is and the fact is that the testimony of the said witness is material and necessary for the complainant, in the several causes in the caption of said deposition named, and that the said witness lives and did live at the time of taking said deposition in the City, County and State of New York, the same being at a greater distance than one hundred miles from the City of Nashville, where the Court, at
416 which it is expected the said causes will be tried, was appointed to be held, to wit, more than five hundred miles therefrom.

I further certify, that a notification of the time and place of taking said deposition was served on Edward Baxter, Esq., the solicitor of the adverse party, to be present at the taking of said deposition, and to put interrogatories if he might think fit.

I further certify, that on the 5th, 8th, 9th, 10th, 11th

and 12th days of July, A.D., 1879, I was attended at 417
my office, No. 52 Broadway, in the City, County and State of New York, in the Southern District of New York aforesaid, by **Edward L. Andrews**, Esq., Solicitor and of Counsel for the Complainant, **Edward Baxter**, Esq., Solicitor and of Counsel for the Defendants, and by **Calvin Amory Stevens**, the witness, who was of sound mind and lawful age, and the witness was by me carefully examined and cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition was by me reduced to writing 418
in the presence of the witness and from his statements, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purposes of annexing the several exhibits, and of sealing up and directing the same with this certificate of the reasons aforesaid for taking the said deposition, with my own hand, to the Court for which the same was taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in said deposition and 419
caption named, or in any way interested in the event of the said causes named in said caption.

In witness whereof, I have hereunto set my
hand and seal, this day of July,
in the year of our Lord one thousand
eight hundred and seventy-nine, and
of the Independence of the United
States the one hundred and fourth.

WILLIAM H. DeLANCEY, 420
[L. S.] *Notary Public*,
Westchester County,
Acting in New York County under and
by virtue of Chapter 807 of the Laws
of 1873 of the State of New York.

Deposition of Calvin Amory Stevens. 1

CIRCUIT COURT OF THE UNITED STATES,

WESTERN DISTRICT OF TENNESSEE.

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis & Charleston R. R. Co., 2

vs.

The Memphis & Charleston R. R. Co. *et al.*

Testimony and proofs for final hearing on the part of Complainants in the above-entitled suit taken under 3 and pursuant to the 67th Rule in Equity, as amended, before William H. DeLancey, Special Examiner, duly appointed herein.

New York, April 12, 1880.

Present.—Mr. E. L. Andrews, 4
For Compl'ts.
Mr. C. H. Tweed,
For Respd'ts.

5 **Calvin Amory Stevens**, a witness produced on the part of the complainants, being first duly cautioned and sworn in the above-entitled suit to testify the truth, the whole truth, and nothing but the truth, deposes and says:

(Deposition taken subject to all legal objections of both parties.)

Direct Examination by Mr. **Andrews**:

6 1 Q. Have you read that portion of James D. Porter's deposition taken at Paris, Tenn., March 9, 1880, in which he says:

"After the legislature had spent some days in
wrangling, they were about to adjourn without
doing anything as to the State debt, and I felt that
I had done my duty and would let them go, but
just at this time I received the telegram, Exhibit
No. 2 to Calvin Amory Stevens' deposition, and
upon the receipt of this telegram, I at once convened
7 the legislature and sent them a second message;
that telegram alone induced me to convene the
legislature and but for it I would not have convened
them in the second extra session?"

A. I have.

2 Q. Will you please state the origin of that telegram?

A. In 1877 I first made the acquaintance of C. H.
Bosher, a partner of R. T. Wilson; our acquaintance
was but very slight, but knowing that he had
8 been an old acquaintance of my father, I relied
upon him; on December 10, 1877, this note from C.
H. Bosher which I made a part of my deposition,
and offer in evidence (marked complainant's Exhibit
No. 1, W. H. D. L., Spl. Exr.) was left at my office
but not received by me on that day; on the evening
of the same day I was surprised to receive at my
house this telegram from C. H. Bosher, which I also

make a part of my deposition and offer in evidence, 9
(marked complainant's Exhibit No. 2, W. H. D. L., Spl. Exr.) on the following day Dec. 11, 1877, in response to his request I called on C. H. Bosher at the office of R. T. Wilson & Co.; C. H. Bosher immediately introduced me to R. T. Wilson, my first acquaintance with him; I was not posted about Tennessee affairs and Mr. Wilson undertook to inform me; he gave me as the latest advices from Nashville that it was impossible for the 60 and
6% bill to pass the legislature then in session there; 10
R. T. Wilson recommended that the bondholders offer to accept 50c. and 6% and have it definitely settled rather than that the Legislature should adjourn without any settlement. He gave me to understand that he like myself was a Tennessee bondholder, and that he was working in the interest of such. I did not then know that Messrs. Wilson & Bosher were interested in inducing the bondholders to give up lien bonds for those which would not
carry liens. Indeed I had not then even read the 11
Tennessee statutes under which the bonds were issued and knew nothing of the so-called substitutions.

R. T. Wilson asked of me permission to write and send a telegram in my name. I allowed him to do so. R. T. Wilson himself wrote said telegram. After hastily reading what he had written, I was on the point of signing my own individual name when R. T. Wilson or C. H. Bosher suggested that
the name of the estate would carry more weight, 12
and it was the same lot of bonds that my father had owned when living, I would be fully justified in signing the estate of Calvin Stevens, C. Amory Stevens, Trustee; after procuring my signature to said telegram, of which he was the author, he took charge of it, and as Bosher stated, on that day dispatched it to Tennessee.

13 3 Q. Were you then acquainted with J. B. Man-
ning, A. Iselin & Co., and Inman Swann & Co., over
whose names telegrams were sent from New York
about the same time and which Governor Porter
published in connection with R. T. Wilson's other
telegrams as the basis of his call for the extra ses-
sion?

A. I was not then acquainted with them, but I am now.

4 Q. Do you understand that those telegrams also
14 were prompted and sent by the railroad interest?

(Objected to as incompetent, immaterial, and irrelevant.

A. I certainly do; J. B. Manning is, was not a
permanent investor in Tennessee bonds, but a broker
who buys to-day and sells to-morrow; his tele-
gram was solicited by the railroad interest and sent
to oblige it; while Messrs. A. Iselin & Co., and In-
man Swann & Co., like R. T. Wilson & Co., were
15 direct representatives of the railroad interest, being
large owners of Tennessee railroad stock and so-
called sustitution bonds.

5 Q. In a second deposition of James D. Porter, taken at Paris, Tenn., March 25, 1880, he says that you signed the petition of Feb. 15, 1877, addressed to the Governor of Tennessee; were you one of the petitioners who joined in that petition?

A. I was not.

6 Q. Was your father a holder of Tennessee bonds
16 at that time, and one of the petitioners who joined
in that petition to Governor Porter?

A. He was; the petition was presented for his signature, and he being too ill at the time to sign personally, I signed it for him, as appears on its face, namely:

CALVIN STEVENS,
By C. AMORY STEVENS,
Atty.

7 Q. Will you produce a copy of the petition of 17
the Tennessee Bondholders filed in the Supreme Court of the U. S.?

A. There is a copy which I offer in evidence. Copy petition marked Complainant's Exhibit No. 3, W. H. D. L., Spl. Exr.

8 Q. Is this a copy of a bill brought by you in the U. S. Circuit Court for the Eastern District of Tennessee?

A. It is, and I offer it in evidence; marked Complainant's Exhibit No. 4, W. H. D. L., Spl. Exr. 18

> Respondent's counsel objects to the foregoing questions 7 and 8 as immaterial, incompetent and irrelevant and to the introduction of said exhibits in evidence.

Cross-examination by Mr. TWEED.

9 x Q. As I understand your testimony to-day, on the 11th of December, 1877, when you signed the telegram to Gov. Porter that has been referred to, you 19
did not know of the claims that Tennessee bondholders had a lien upon the roads to which they were issued which you have asserted in these suits?

A. I did not; my introduction to such business affairs did not begin until after my father's death, March 15, '77, when I took charge of the estate.

10 x Q. When and from what source did you first learn of this claim?

A. After the Wilson telegram, Dec. 11, '77, when 20
I read the Tennessee Statutes, Davies' and Davis opinion and Humes & Porton's brief.

11 x Q. Did you do that before hearing read Mr. Wilson's letter to Mr. Terry, dated June 11, 1878?

A. It must have been about that time.

12 x Q. That was in or about June, 1878?

21 A. Yes.

13 x Q. On the 11th December, '77, were you the owner of any Tennessee bonds except those which you had received from your father's estate?

A. I was; of less than $20,000.

14 x Q. Whene had you procured those that you had at that time?

A. I should say I bought the first several years before. I could not fix the date without referring to my books.

22 15 x Q. Will you please refer to your books so that you can state the number that you bought, the time that you purchased them, and the amount that you paid for them, in respect of each of the Tennessee bonds which you owned on the 11th December, 1877, and which you did not receive from your father?

A. I have already given my books full and careful investigation in answer to that and similar questions asked me at previous examinations aiming to
23 throw all the light that I could on the question; I can do nothing better than I have done.

16 x Q. What books did you keep in and prior to 1877?

A. I kept no regular set of books.

17 x Q. What books did you keep containing a record of your purchases of bonds?

A. I would call it a private memorandum book, giving a brief statement of what real estate and bonds that I owned.

24 18 x Q. Where is that book now?

A. It is likely at 51 West Fifty-second street, which is my residence in New York.

19 x Q. If on the 11th December, 1877, you had any of the bonds which have been put in evidence by you in the cases in and for which you are now being examined, viz: the cases against the E. T., Va. & Ga. R. R. Co., the Cin., Cum. Gap & Charles-

ton R. R. Co., the Knoxville & Ky. R. R. Co. and 25
the Memphis & Charleston R. R. Co ; would they not appear in that book?

A. They might, but not with sufficient accuracy to identify them ; I think the chances are nine out of ten they would.

20 x Q. On the 11th December, 1877, outside of the bonds which you received from your father, did you have as many as $10,000 of Tennessee State bonds?

A. I should say somewheres thereabout, certainly 26
inside of $20,000, somewhere near $10,000.

21 x Q. Will you swear that you had as many as $5,000 outside the bonds you received from your father?

A. I do.

22 x Q. Do you know whether any of the bonds outside those you received from your father, were loaned by the State of Tennessee to any of the railroads proceeded against in any of your pending
suits, and if so, which bonds and to which railroad? 27

A. My impression is that there were a few, but none of them have been proven in any of the cases which the present counsel for defendants represents.

23 x Q. Did you have the bonds of the State of Tennessee, which you received from your father, on the 11th December, 1877?

A. I could not answer whether I then had all of them or only a part.

24 x Q. Did you sell a portion at or about that 28
time?

A. I do not recollect whether I sold any during the year 1877, but my impression is I did during the year 1878.

25 x Q. When and how did you receive the bonds of the State of Tennessee, which you received from your father?

29 A. I should say within six months before his death, through a written instrument executed by him.

26 x Q. Where is that written instrument ?

A. In this city.

27 x Q. Under your control ?

A. It is.

28 x Q. Does it specify in or about the instrument the numbers of the bonds which were transferred to you by your father ?

30 A. It does not—merely the aggregate amount.

29 x Q. Is there any record, and if so, where, of the numbers of the bonds which were transferred by your father to you ?

A. H. T. Morgan & Co. had such record, and the bonds themselves were the best evidence of their numbers ; H. T. Morgan & Co.'s record speaks for only such bonds as my father bought through their house, which I think include most of his purchases.

31 30 x Q. After you received the bonds did you make or have a list of their numbers ?

A. I did.

31 x Q. Have you any list of them now ?

A. I may have kept it though I am not certain ; after it had enabled me to prove what bonds issued to railroads were among my present holdings my impression is that it went with other uncared for papers.

32 x Q. Do I understand you that you compared
32 this list with the lists of the numbers of bonds
loaned by the State to different railroads ?

A. You do.

33 x Q. Were any of those bonds bonds which you have proved in evidence in any of the cases which I have mentioned above as the cases in and for which this deposition is being taken ?

A. They were not.

34 x Q. How many of them were bonds which were loaned to railroads? 33

A. I could not answer how many, but very largely in the minority.

35 x Q. Were any of them bonds loaned to railroads?

A. They were.

36 x Q. As many as ten?

A. There might have been ten and there might not; most of them were "green" bonds.

37 x Q. What was the aggregate amount of the Tennessee bonds received by you from your father? 34

A. I think it was $110,000.

38 x Q. When did you commence the earliest of the suits brought by you upon the ground that Tennessee bondholders were entitled to a lien upon the railroads to which the bonds were loaned?

A. I cannot give the exact date from memory; they were all in January, 1879, as I learn from my counsel.

39 x Q. How long before the beginning of that suit did you instruct counsel to commence suits against the railroad companies upon that ground? 35

A. I could not answer that question definitely either; I should say within six months before the suits were commenced.

40 x Q. Between about June, 1878, when you learned of this claim to a lien and January, 1879, you were engaged in procuring Tennessee State bonds of the numbers which were issued to solvent railroads, were you not? 36

A. I bought such bonds issued to solvent and insolvent railroads.

41 x Q. Did you select out bonds issued to railroads, or did you undertake to make a distinction between bonds issued to solvent and bonds issued to insolvent railroads.

A. I bought both ways, solvent and insolvent together, and solvent and insolvent separately.

37 42 x Q. Did you undertake to retain those issued to solvent railroads and dispose of the others?

A. I bought both, and have retained both; I aimed principally to avoid bonds issued to turnpikes and bonds issued to railroads which did not carry liens; I also avoided graveyard bonds and bonds issued for State purposes.

43 x Q. The principle of selection was substantially then to retain bonds issued to railroads?

A. That was it, preferring bonds issued to main
38 trunk lines rather than feeders.

44 x Q. Were you present at, or did you know of the argument in the Supreme Court of the U. S. upon this or a similar question in or about June, 1878?

A. I was not present, but I knew of it and was very much surprised when I learned that our opponents had settled with the complainant in that suit thus preventing a decision in our case, the more so, because the defendants in that suit representing the
39 railroad interest had specially invited the Tennessee bondholders to enter that case, and have it adjudicated upon and definitely settled at that time.

(Respondent's counsel objects to all of the above answer after the words "I knew of it" as irresponsive.)

45 x Q. Did you have any personal knowledge of the invitation you have spoken of in the last an-
40 swer?

A. I was present when the invitation was extended by R. T. Wilson to the Tennessee bondholders, and certainly considered myself one of those invited.

46 x Q. By this invitation do you refer to the letter of R. T. Wilson to Terry dated June 11, 1878?

A. I refer to that letter which was publicly read

at a meeting held in R. T. Wilson's office at which 41
numerous Tennessee bondholders were present.

47 x Q. You know of course in June, 1878, that the railroad companies resisted this claim to a lien?

A. I did.

48 x Q. While you were purchasing your bonds from June, '78 to January '79, you knew that they would resist the claims that you intended to make upon them?

A. I naturally supposed that they would resist them until they were forced to pay them. 42

49 x Q. Forced how?

A. By the law of the land.

50 x Q. Did you before commencing these suits ever present any coupons appertaining to any of these bonds to any railroad company and demand payment thereof?

A. I did not.

51 x Q. Please give me the maximum and minimum of the prices which you paid for bonds between June, '78 and January, '79? 43

A. I paid the Stock Exchange prices of those dates when they were bought promiscuously, but most of my bonds were bought off the Stock Exchange, buying only railroad lien bonds and paying several per cent. above the Stock Exchange prices for that privilege.

(Witness is requested to produce at the adjourned meeting to-morrow the memorandum book which has been referred to on this 44
examination, and a list of his father's bonds, if it is still in existence.)

Adjourned to 13th, at 4 P. M.

April 13th, adjourned to 14th, 2 P. M.

45 New York, April 14, 1880.

Present—Counsel as before.

Cross-examination resumed:

52 x Q. Did you pay above the Stock Exchange prices for the the privilege of selecting bonds at any time prior to about June, 1878, when you learned of this claim to a lien ?

A. I cannot say for a certainty, but I think not.

53 x Q. What percentage above the Stock Ex-
46 change prices did you pay between June, 1878, and
the commencement of these suits, January, 1879, for
the privilege of selecting bonds ?

A. For the privilege of exchanging non-lien for
lien bonds, I think that three per cent is the highest
difference that I paid and from that as low as ⅛ per
cent. But for selected R. R. lien bonds which I
bought directly off the Stock Exchange, I think
that I paid as high as 5 per cent. above the current
Stock Exchange quotation for "old" bonds, and
47 as high as 10 or 12 per cent above the Stock Ex-
change quotations for "new" bonds.

54 x Q. Do you mean to be understood as saying that you bought "new bonds" and paid for them 10 to 12 per cent. above the market price of such bonds?

A. I certainly do not mean any such thing, but I do mean that I paid for "old" R. R. lien bonds fully as much as 10 or 12 per cent. above the Stock Exchange quotation for "new" bonds.

48 55 x Q. At that time what was the difference in
the market price at the Stock Exchange between
"old" bonds generally and without regard to lien
and "new" bonds generally and without regard to
lien ?

A. I do not recollect accurately but according to the Stock Exchange quotation between January and February, 1879, which defendants have put in evi-

dence, the extreme difference between the Stock Exchange sales of Tennessee "news" and "olds" was 49
17 per cent.

56 x Q. That difference between Tennessee "olds" and Tennessee "news" is the difference between the lowest price at which Tennessee "news" were sold during the month of February, 1879, and the highest price at which Tennessee "olds" were sold during that month, is it not?

A. It is; the difference for the month of January
was not quite so great. 50

57 x Q. You do not wish to be understood as testifying that there was ever a time when the difference between these quotations of "old" and "new" bonds was as great as 17 per cent. on any particular day, do you?

A. I cannot answer that question, the Stock Exchange quotations will show.

58 x Q. When you made purchases of bonds on the Stock Exchange you paid the current price for
them and received what bonds were delivered under 51
the purchase, did you not?

A. Such was the case whenever I bought bonds that way.

59 x Q. When you bought bonds off the Exchange, did you ever pay to the person from whom you bought them, and if so to whom more than five per cent. in excess of the then market price of that kind of bonds at the Exchange?

A. I should say not more than five per cent. above
the Stock Exchange quotation for "old" bonds, 52
but fully 15 per cent. above the Stock Exchange quotations for "new" bonds.

60 x Q. Have you ever bought off the Stock Exchange "new" bonds and paid for them more than 5 per cent. above the market price at the Exchange for "new" bonds?

A. I never bought a "new" bond off the Stock

53 Exchange to the best of my recollection, and very few indeed at the Stock Exchange, and those long before the commencement of these suits if I ever bought any at all.

61 x Q. To whom and when did you ever pay as high as 5 per cent. for selecting bonds ?

A. I have several times given the names of all the brokers through whom I ever bought any Tennessee bonds from whom counsel can obtain all the information he seeks if disposed to make sufficient
54 effort.

62 x Q. Can you give me the name of any broker or other person to whom you ever paid as much as 5 per cent. for the privilege of selecting bonds ?

A. I did not testify that I ever paid as high as 5 per cent. for the privilege of exchanging bonds; as I recollect my testimony it was 3 per cent. as the highest that I thought I ever paid for exchanging bonds.

63 x Q. How low a premium did you pay for the
55 privilege of exchanging bonds ?

A. One-eighth of one per cent. was the lowest.

64 x Q. Did you notify the persons from whom you received the bond that you were giving them an unsecured bond and receiving from them a secured bond as you thought ?

A. I think, in fact I know that the brokers must have been aware of that fact for they offered them to me and that was inducement held out by them for me to pay the difference in exchange.

56 65 x Q. Did you yourself notify any of the persons with whom you exchanged such bonds of that claim ?

A. I bought the bonds through brokers, not meeting with the original owners.

66 x Q. Did you notify the original owners or were they to your knowledge notified of that claim ?

A. I certainly did not, for I certainly could not notify parties whom I never saw or knew even if it were the least incumbent on me to do so. 57

67 x Q. As I understand you what you did was to pay the brokers who held the bonds from $\frac{1}{8}$ per per cent to 3 per cent, to exchange unsecured bonds for those which you considered secured; is that correct?

A. I think it would be more correctly expressed by stating that brokers sought me and offered to sell and exchange such bonds on their own terms, either for account of their customers or themselves. 58

68 x Q. Did you never go yourself to a broker's office and propose such a transaction?

A. I certainly have frequently informed brokers that I was ready to buy or exchange such bonds, and as soon as they became aware of that fact they have shown themselves ready to notify me when they had such bonds for exchange or sale.

69 x Q. Can you name any broker from whom you have bought "Old" bonds, between the time when you first knew of this claim of lien in or about June, 1878, and the commencement of these suits, to whom you paid as much as five per cent. above the then market price of "Old" Tennessee bonds, for the privilege of receiving only what you considered secured bonds? 59

A. As I have before stated, my impression is that I paid as much difference as that, that was for one very large and select lot of bonds; the name of the broker through whom they were purchased has already been given by me, and is on the record. 60

70 x Q. What is the name of that broker?

A. Counsel for defendant can ascertain if he is disposed to see the different brokers through whom I bought bonds, and all of whose names I have given.

71 x Q. Do you decline to give the name of the broker from or through whom you bought this particular lot of bonds?

A. I do not decline for I have already given it.

61 72 x Q. Have you ever given it in your testimoy in this case except in conjunction with the names of all other brokers with whom you dealt?

A. I have not and do not propose to.

73 x Q. Cross question 70 repeated?

A. I have already put counsel for the defendants in the way to ascertain the information that he seeks I will not oblige him further.

62 (Counsel for defendants insists upon an answer to this question, and proceeds with further cross-examination of witness without waiving his right to insist upon this question being answered).

74 x Q. At what time did you purchase this particular lot of bonds?

A. I should say within three months before the commencement of these suits.

75 x Q. At what price did you purchase them?

63 A. I decline to answer such an impertinent question.

76 x Q. Cross-question 75 repeated.

A. I would state that I shall decline to answer any and all questions which I regard as impertinent and unnecessarily inquiring into my private affairs.

64 (Counsel for defendants insists upon an answer to this question, and proceeds with further cross-examination of witness without waiving his right to insist upon this question being answered).

77 x Q. Have you any book of account or memorandum book which contains any entry of the date and price of your purchase of this lot of bonds?

A. I certainly have.

78 x Q. Is it now in your control ? 65

A. It is.

79 x Q. Have you any such book with you here ?

A. I have not.

80 x Q. Where is it ?

A. At my house.

81 x Q. How is it designated ?

A. That is another question which I do not propose to answer.

82 x Q. Will you produce that book at the continuation of your examination to-morrow ? 66

A. I certainly will not produce that or any other book that unnecessarily makes public my private affairs.

83 x Q. Do you decline to produce that book before the Examiner after sealing up the other entries in the book except the entries relating to the purchase of this particular lot of bonds ?

A. I certainly do, although I would willingly do so were it not for the impertinence of the demand and the fact that R. T. Wilson, whom counsel for 67 defendants represents, positively refused to produce important books and papers that complainant demanded.

(Defendants' counsel objects to so much of the foregoing answer as follows: the words "I certainly do," as irresponsive.

Adjourned to 15th inst., at 2:30, P. M.

68

15th April, adjourned to 17th, 11 A. M.

69 New York, April 17th, 1880, 11 A. M.

Present—Counsel as before.

84 x Q. Can you now tell us what was the highest and what the lowest price which you paid for bonds between about June, '78, when you first knew of the claim of lien, and January, 1879, when the suits were commenced?

A. Not more definitely than I already have, without referring to my books, on which point I have 70 not posted myself since the last examination.

85 x Q. Have you no memoranda with you by reference to which you can give an accurate or approximate statement in regard to this matter?

A. I have not. From my recollection I should say that the highest price I paid for those with regular coupons on was 42½. But the highest price paid for any of the bonds given me by my father was 85⅝, while the highest price which I paid for bonds that I bought myself before my father's death 71 was 57.

(Respondents counsel objects to so much of the last answer as follows "42½.)"

86 x Q. What was the date at which you paid 57 for bonds purchased by you?

A. I will answer that question when counsel calls for the memorandum that he demanded at the examination on the 13th inst.

72 87 x Q. Have you here present the bill or account of the purchase of the bonds for which you paid 57?

A. I have, and in answer to the demand which counsel for defendants made for those and other memoranda at the adjourned examination of April 13th, 1880, would say that at the close of this deposition I will allow counsel for defendants to in-

spect them to his fullest satisfaction. Were it 73
merely to oblige him individually I would willingly produce them during this present examination, but I cannot favor the defendants with any further pretext, either for obstructing and postponing the trial of these causes, or to add to their already imposing mass of irrelevant testimony by which they are seeking to encumber the record, and thereby hoping to confuse and bewilder justice, and certainly it is not in the least
incumbent that I should give aught of favor to such 74
notoriously bad characters as the Memphis and Charleston and other railroad companies of Tennessee which have so mercilessly wronged the Tennessee bondholders—corrupt and avaricious debtors that have enriched themselves at the loss of their unfortunate creditors—heartless corporations which in their selfish greed have done so much to ruin the credit and drag down to shame their very mother State to whom they owe their being. That it may
not be said that I base my assertions merely on cur- 75
rent rumor, I would specially call the attention of the Court to the public records of Tennessee, whose pages are black with proof of railroad corruption and sin. I take from those records but two specimens. I offer in evidence and make a part of this my deposition, copies of the testimony given by M. C. Galloway at Nashville, Tennessee, February 7, 1879, and also that of Rev. N. W. Motheral, given at Cleveland, Tennessee, February 10, 1879, both
taken before the State Committee, appointed to in- 76
vestigate the State debt.

(Counsel for defendants objects to all the previous statement after the words "I have" as irresponsive, irrelevant and idle perversion of the requirement that the examiner shall reduce to writing all the statements of the

77 witness, and objects to the documents referred to by the witness as incompetent, immaterial and irrelevant, and as obviously not proper evidence in the cause, nor proper to be annexed to witness's deposition.)

(Copy Galloway's testimony offered in evidence, and marked Complainant's Exhibit No. W. H. D. L., Sp'l Ex'r.)

78 (Copy Motheral's testimony offered in evidence marked Compl't's Exhibit. No. W. H. D. L., Sp'l Ex'r.)

88 x Q. Will you now produce the bill or account of the purchase of the bonds for which you paid 57?

A. I certainly will not for the reasons already given.

89 x Q. What was the date of the purchase by your father of Tennessee bonds at $85\frac{5}{8}$?

A. I decline to do that for the reason already
79 given.

90 x Q. What is your best recollection in regard to the lowest price at which you purchased bonds between June, 1878, and January, 1879.

A. I should say not lower than thirty.

91 x Q. You have spoken of bonds being bought by you between June, 1878, and January, 1879, with regular coupons on; state what coupons that included.

A. I mean all such coupons that up to that date
80 were due and unpaid. During the interval between June, 1878, and January, 1879, there were the six unpaid coupons previously falling due, besides those thereafter to accrue.

92 x Q. The prices which you have mentioned were prices for the bonds with their coupons on, were they not?

A. Certainly.

93 x Q. Do I understand you that in or about June, 81
1878, after hearing read Mr. Wilson's letter of June 11th, 1878, you procured and read a copy of Humes and Poston's brief in opposition to the claim of the Tennessee bondholders to a lien upon the railroads to which bonds were loaned by the State ?

A. Such was the case.

94 x Q. That brief contained a statement of the position of Railroad Companys in opposition to the claim—that the bondholders were entitled to a lien, did it not ? 82

A. Such is my recollection of the brief; the brief itself is the best evidence of what it contained.

95 x Q. Was that the first knowledge that you had of the settlements which had been made by the Railroad Company's with the State, or had you not previously known generally about the facts in regard to such settlements or of some of them ?

A. That must have been about the time of my first knowledge of those facts, for I certainly did not know them at the date of the telegrams and letters 83
to Governor Porter, bearing my signature, all of which were written in December, 1877.

96 x Q. Between December, '77 and June, '78, had not these settlements been referred to in conversation with you either by Mr. Wilson or other persons concerned in Tennessee affairs ?

A. They certainly could not have been referred to in conversation with me prior to December 11th, '77, for I had never before during my life met with Mr. Wilson until that day; nor by any other per- 84
son, for had I been aware of such facts I would not have allowed such telegram and letter to have been sent—between December 11th, '77 and June, '78; I have no recollection as to the specific date when I was first informed of it, at least more specifically than I have stated—I mean between December 11th, '77 and June, '78.

85 97 x Q. Then I understand you that it was between Dec. 11, '77, and June, '78, according to your best recollection, that you learned of these settlements ?

A. Such is the case.

98 x Q. Were all the bonds which you have proved in the six cases which I have previously referred to bonds which were registered under the Act of 1873 ?

A. I so understand it.

86 99 x Q. Have you ever, prior or subsequent to the bringing of these suits, at any time requested or demanded of the Governor of Tennessee that he appoint a receiver to take charge of and operate the railroads involved in the cases above referred to, and out of the earnings of said railroads pay the coupons due on said bonds sued on herein ?

A. I have not.

100 x Q. Have you ever, since your ownership of said bonds herein sued on made any legal effort to
87 require the Comptroller or Treasurer of Tennessee to apply the revenues of said State, collected by said State, to the payment of the past-due coupons on said bonds ?

A. I have not.

101 x Q. Please examine original letters to the Governor of Tennessee, dated February 15, 1877, in which there is a proposition to the State of Tennessee to give up the State bonds held by those sending said letter and accepting in their stead new
88 bonds of the State of Tennessee to be thereafter issued bearing 3, 4, 5 and 6 per cent. interest, and whether the signature "Calvin Stevens, by C. Amory Stevens, Att'y," is or is not your signature, and whether said proposition was forwarded to the Governor of Tennessee with your consent ?

A. Representing the bonds belonging to my father, I did sign that letter, but nearly all the

bonds there represented, and also represented by 89
me in subsequent telegrams and letters to the Governor of Tennessee, were plain State bonds unsecured by any railroad lien; I do not know if the letter went to the Governor, but presume it did.

102 x Q. By 50 and 6 in your telegram you meant that in exchange for the old bonds new bonds of the State should be given for 50 per cent. of the amount of old bonds and accrued interest, coupons of the new bonds to be made receivable for taxes, interest to
be at 6 per cent. on the new bonds? 90

A. I understood that to be the meaning of the offer which R. T. Wilson made in a telegram sent over my name.

103 x Q. Did you not state to Mr. Wilson at or before the date of said dispatch, and on that day, that you were willing to take the 50 and 6, and that you would see others and ascertain whether they were not also willing to do so?

A. In my ignorance as to the true facts of the
case I did give that assurance to Mr. Wilson and 91
fulfilled my promise.

104 x Q. The dispatch was read over to you before signing it, was it not?

A. It was either read over to me or else I read it over hastily myself, so hastily indeed that not until my recent examinations with Messrs. Fentress and Wright did I become aware of the evident misstatement that I was a signer of the former petition sent to Governor Porter through the committee of arbi-
tration. I can find no evidence, and I certainly have 92
no recollection of having signed that petition.

105 x Q. After sending the telegram of December 11, 1877, and the letter of about the 15th December, '77, to Governor Porter, did you not go to Mr. Iselin's office and exhibit to the younger Mr. Iselin copies of the telegram and letter to show what you were doing in Tennessee matters?

93 A. In my ignorance, and while supposing that R. T. Wilson had fully posted me as to the true facts of the situation, I did have such an interview with Iselin and showed him what had been done.

New York, April 22, 1880.

Present—Counsel as before.

Re-direct Examination.

106 Q. Now that you have been assured by the counsel for defendants that they do not seek to further postpone the trial of these causes, and that you have examined more fully than ever books and memoranda in reference to your Tennessee bonds, will you please answer all unanswered pertinent questions? 94

A. I will do so with pleasure.

107 Q. How many Tennessee bonds did your father register in 1873?

A. Eighty-four.

95 108 Q. How many did he fund?

A. Forty-two. I annex a copy taken from my father's cash book, under date of Sept. 5, 1873, showing the transaction.

(Copy annexed, marked Complt's Exhibit No. 7, W. H. D. L., Sp'l Ex.)

109 Q. Did he both buy and sell Tennessee bonds after 1873 and prior to his death?

A. He did.

96 110 Q. How many Tennessee bonds did he give you?

A. He gave me one hundred and ten—$110,000.

111 Q. How many of the $110,000 were "New Bonds?"

A. Sixty-five—$65,000.

112 Q. How many Old Bonds, 6%, color white, Letter B, did he give you?

A. Forty-four—$44,000, and one Old Bond, 5%, 97
color white, No Letter $1,000.

113 Q. Please give the numbers of the forty-four Old Bonds, color white, Letter B?

A. The numbers are: 7829, 968, 7173, 3566, 7021, 7020, 11,567, 6643, 11,472, 2340, 8766, 9710, 1842, 11,400, 2109, 7839, 8709, 1807, 9551, 8424, 8718, 649, 4479, 1162, 8824, 8012, 1037, 8716, 9459, 9066, 897, 10,058, 263, 10,793, 1068, 10,060, 5,674, 7432, 4494, 1234, 11,744, 992, 717, 8717.

114 Q. Did you own any bonds prior to your 98
father's death, and aside from those which he gave
you?

A. I owned nine—$9,000, $5,000 of which I bought
September 25, 1874, through John Buckley, Jr. at
57, Nos. 9867, 9889, 9868, 5421, 2714, color white,
Letter B. January 7, 1875, I also bought through
John Buckley, Jr., $1,000 at 55¾, No. 9461, color
white, Letter B, and February 20, 1877, I bought
through Hooper & DeWing, $3,000 at 43, Nos.
7422, 8307, 11,322, color white, Letter B. 99

115 Q. After your father's death, and before June, 1878, before you had read the Tennessee Statutes and had informed yourself as to the Tennessee Railroad Lien, and so called subscriptions, and before you had contemplated forcing the railroad companies to recognize their dishonored obligations, how many additional Old Tennessee Bonds, 6%, color white, Letter B, did you buy?

A. Between October 29, 1877, and March 30, 1878,
I bought through H. T. Morgan & Co., thirty-two— 100
$32,000.

116 Q. Then I understand that the aggregate amount of old Tennessee 6% bonds, color white, letter B, which you bought individually before your father's death, together with what you received from him by gift before his death, and what you bought additional after March 15, 1877, before you contem-

101 plated suing the railroads, amounted to ninety-five
($95,000).

A. Such is the case.

117 Q. How many of those ninety-five bonds were Tennessee Railroad lien bonds?

A. I should say nearly all; at least fully nine-tenths. I find that my father gave me more railroad lien bonds than I had supposed.

118 Q. In your previous depositions you gave 85⅝
and 90 as the highest prices paid for Tennessee
102 bonds by your father. Were your impressions
fully accurate?

A. I find that they were not quite so. His books show that during March, 1873, he paid 86⅛ for three different lots, the highest prices recorded among his purchases.

119 Q. Through whom did you purchase the lot of railroad lien bonds at 42½ referred to in your last deposition, and at what date?

A. Newton Deuel, Esq., on Nov. 25, 1878.

103 120 Q. Have you read the circular of the late
"Agent for the State of Tennessee," S. Watson,
Esq., published in 1868, in which, after narrating
the condition and prospects of the various railroad
companies of Tennessee in which the railroad lien
bondholders were so vitally interested, he says:
"The important question for the bondholders now
is, What security have I for the payment of the
principal and interest of my bond? The State debt
proper is only about $4,000,000. The railroads and
104 all their rolling stock are mortgaged to the State to
secure the payment of bonds loaned. This mortgage,
as bondholders must know, inures to their
benefit. For the payment of $29,000,000 of bonds,
which will be the entire amount of bonds issued to
the roads, including those that may be issued under
the recent act of the Legislature, the bondholders
have as security roads which, when completed,

will be nearly 2,000 miles in length, and which will have cost, and which will be worth, fully $70,000,000. In addition to that, they have the whole resources of the State solemnly pledged to them?" 105

(Objected to as incompetent, immaterial and irrelevant and a plain perversion of the duty required of the Examiner to take and return whatever testimony and Exhibits are presented to him.)

A. I have read that important document, an original copy of which I herewith offer in evidence, and make a part of this my deposition. 106

(Respondent's counsel objects to the document being received in evidence or annexed to the deposition as incompetent, immaterial and irrelevant, and not properly proven in the case.)

(Copy document offered in evidence; marked Complainants Exhibit No. 8, W. H. D. L., Spl. Exr.) 107

Re-cross-examination by Mr. **Tweed**:

121 x Q. What prices did you pay for the $32,000 in bonds purchased by you between October 29th, 1877 and March 30th, 1878, and what were the dates and amounts of the respective purchases?

A. As to the prices, speaking from memory, I should say that they were from 38 to 43; as to the dates: 108

$1,000	was bought	Oct.	29th,	1877,	at	43⅛
$1,000	" "	Nov.	3	"	at	43⅞
$10,000	" "	Dec.	12	"	at	43⅛
$3,000	" "	Jany.	30	1878,	at	39⅛
$10,000	" "	M'ch	22	"	at	39⅛
$2,000	" "	M'ch.	25	"	at	38⅞
$5,000	" "	M'ch.	30	"	at	39⅛

109 122 x Q. Of these bonds those purchased before January, '78, carried only four matured coupons, and those purchased after January, '78, carried at the time of purchase five matured coupons; whereas those you purchased between July, '78, and January, '79 carried six matured coupons.

A. Yes.

123 x Q. And the prices you paid between October, '77, and March, '78, when you did not know anything about the lien, ran from 38 to 43, whereas
110 the prices for those carrying one or two more coupons which you purchased between July, '78, and January, '79, when you knew of the claim of lien, ran from 30 to 42½, did they not?

A. That is about correct I think, though I spoke from memory when I said I bought as low as 30. It is also true that I paid as high as 52½ for a few bonds carrying extra coupons bought before January, 1879.

124 x Q. How many bonds were those you paid
111 52½, and how many extra coupons did they bear?

A. Two bonds. I do not recollect the exact number of coupons: On reference I find there were 15 extra coupons.

125 x Q. What was the peculiarity about the lot of bonds for which you paid 42½?

A. They were all railroad lien bonds in contradistinction to bonds issued solely for State purposes, and which constitute the State debt proper.

126 x Q. Did those bear any extra coupons?

112 A. They did not.

127 x Q. How many were there in that lot?

A. $116,000.

128 x Q. Prior to July, 1878, had you sold any of the Tennessee bonds which you had yourself purchased, or had received from your father?

A. I had sold the entire 65 new bonds given me by my father.

129 x Q. When did you sell those? 113

A. $21,000 were sold May 16th, May 22d, July 25th, 1877; $44,000 were sold August 20th, August 21st and August 27th, 1877.

130 x Q. Prior to July, 1878, had you sold any part of the $95,000 of old Tennessee 6% bonds, color white, letter B, which you have referred to in your direct examination to-day?

A. On December 26, 1877, I find a record of sale at $20,000 of those bonds.

131 x Q. Have you ever sold any others of those $95,000 of those bonds, except the $20,000 just referred to? 114

A. I know that I exchanged a few of them, but I cannot state positively if I sold any more of them, excepting No. 3,566, color white, letter B,—a graveyard bond which was too ghostly for me to keep.

132 x Q. Except the two bonds which you bought at 52½ and which carried fifteen extra coupons, and the particular lot of bonds which you bought at 42½; what was the highest price you paid for bonds between June, 1878, and January, 1879? 115

A. I could not say positively, but I should say between forty and forty-five.

133 x Q. Have you not already stated that 42½ was the highest price which you paid, and that for a particular lot of bonds, for any bonds except those that carried an extra lot of coupons?

A. I have, speaking from memory.

CALVIN AMORY STEVENS.

116

134 x Q. Where did you first read the pamphlet, Exhibit No. 8?

A. As I recollect it, either that copy or the copy I first read was in this city, and came from James G. Kings Sons, bankers; I either borrowed it from that house and read it at home, or from Mr. Geddes, who had borrowed it of them.

117 135 x Q. When was that?

A. I should say, as nearly as I can recollect, on or about May 17, 1879.

136 x Q. Did you ever see any authorization from the State of Tennessee to S. Watson to act as its agent?

A. Only such authorization as the document itself shows by the signature "S. Watson, Agent for the State of Tennessee."

137 x Q. The signature then on the first page of
118 this paper, "S. Watson, Agent for the State of Tennessee" is then the only knowledge you have of his agency for the State?

A. Yes.

CALVIN AMORY STEVENS.

Subscribed and sworn to before me
this 22d day of April, 1880.

WILLIAM H. DELANCEY,
Special Examiner.

I, WILLIAM H. DE LANCEY, Special Examiner,
119 duly appointed by the Circuit Court of the United States for the Western District of Tennessee to take the testimony and proofs of both parties in the above-entitled suit, in the city of New York, do hereby certify that on the several days named in the deposition hereto annxed, I was attended at my office, No. 52 Broadway, in the city of New York, by the counsel and witness aforesaid. That the said witness was duly cautioned and sworn in the above-entitled suit, and examined, and the deposition was
120 reduced to writing and read to the witness, and by him subscribed in my presence; and that the exhibits hereto annexed, marked "Complainant's Exhibits No.'s 1, 2, 3, 4, 5, 6, 7 and 8, W. H. D. L., Spl. Exr.," were introduced in evidence in said cause during the taking of said deposition.

Dated April 22, 1880.

WILLIAM H. DE LANCEY,
Special Examiner.

121

COMPLAINANT'S EXHIBIT No. 1.

W. H. D. L., Spl. Exr.

D'r Sir: Please call & see me at y'r earliest convenience.

C. H. BOSHER,
2 Ex. Court.

C. A. STEVENS. Dec. 10/77.

122

COMPLAINANT'S EXHIBIT No. 2.

W. H. D. L., Spl. Exr.

Telegram.

MINING EXCHANGE, Dec. 10, 1877. 123

C. A. STEVENS,
32 West 32d street.

I am exceedingly anxious to see you to-day about Tennessee matters. Can you call here, or where can I see you.

CHARLES H. BOSHER,
2 Exchange Court.

124

125 COMPLAINANT'S EXHIBIT—NO 3,
W. H. D. L., S'p'l Ex.

SUPREME COURT OF THE UNITED STATES.

RODOLPH MERIAN, *et al.*,
Appellants,

126 *vs.*

WILLIAM B. DUNCAN, *et al.*,
Appellees.

PETITION OF COMMITTEE
OF
127 # TENNESSEE BONDHOLDERS.

GEORGE HOADLEY
E. L. ANDREWS,
EDGAR M. JOHNSON.
Of Counsel.

128

SUPREME COURT 129

OF THE UNITED STATES.

Rodolph Merian, *et al.*,
Appellants,

vs.

William D. Duncan, *et al.*,
Appellees. 130

OCTOBER TERM, 1877.

No. 1037.

To the Honorable the Judge of the Supreme Court of the United States:

The petition of Eugene Kelly, Peter Geddes, R. S. Moran, John T. Terry and J. G. K. Duer, on their own behalf, and, as a committee, representing several millions of dollars in bonds of the State of Tennessee, more than   of which have been already ascertained to be of the Internal Improvement Bonds of said State, respectfully shows to the Honorable, the Supreme Court of the United States. 131

That on the 11th February, 1852, the Legislature of Tennessee passed an act designed to aid in the development of internal improvements in said State by means of Railroads. By that act the State proposed to constitute certain of its own bonds about to be issued to specified railroad companies named in the act, the paramount liens on the property of the respective railroad companies to which they should be issued, and by such security to facilitate their sale and induce their purchase by investors and the public. 132

133 This object was carried into effect by providing in the act, authorizing the issue of the bonds, and in the section or that act operating as a statutory lien, as follows:

"So soon as the bonds of the state shall have been issued for the first section of the road they shall constitute a lien upon said section." And a like lien for subsequent sections was provided for in said act for the *payment* by said company of said
134 bonds, with interest thereon, as the same becomes due. The said act was, by tha 18th section thereof, declared to be deemed and taken "to be a public act as to all purposes of notice."

Thereafter, when the Mobile and Ohio Railroad Company, and other railroad companies, had accepted the terms and conditions of this statute, the Internal Improvement Bonds were issued to the said railroad companies.

135 Your petitioners show—

That the proceeds of the said bonds, authorized by the said acts to be issued with the aforesaid lien to secure the same on the face of the law authorizing their issue, were required by said statutes to be applied strictly to the construction of the respective roads to which the bonds were respectively issued.

The bonds were sold by the Mobile and Ohio Rail-
136 road Company and the other railroad corporations, to *bona fide* purchasers in the following:

137

Amounts.	Constituted Liens On.
1,298,000	Mobile and Ohio Railroad,
1,290,000	East Tennessee and Georgia Railroad.
388,000	Hiawassee Railroad.
1,461,000	East Tennessee and Virginia Railroad.
68,000	Lagrange and Memphis Railroad.
963,000	Memphis and Charleston Railroad.
533,000	Tennessee and Alabama Railroad.
423,000	Central Southern Railroad.
1,335,000	Memphis and Ohio Railroad.
126,000	Mississippi and Tennessee Railroad.
404,000	McMinnville and Manchester Railroad. 138
434,000	Louisville and Nashville Railroad.
566,000	Winchester and Alabama Railroad.
956,000	Memphis, Clarksville and Louisville Railroad.
191,000	Rogersville and Jefferson Railroad.
774,000	Edgefield and Kentucky Railroad.
709,000	Knoxville and Kentucky Railroad.
457,000	Charleston Railroad.
562,000	Mississippi Central Railroad.
1,653,000	Nashville and Northwestern Railroad.
157,000	Nashville and Chattanooga Railroad.
211,000	Knoxville and Charleston Railroad.
86,000	Tennessee and Pacific Railroad.
96,000	Southern Railroad.
48,000	Carolina Railroad.
28,000	Evansville, Hudson and Nashville Railroad.
76,000	Nashville and Decatur Railroad. 139
$15,044,000	

Of the said bonds so issued in aid of the construction of the Mobile and Ohio Railroad Company, these petitioners are the holders and representatives of bonds to the amount of $, and of bonds issued to the other roads above named, under the same statute, these petitioners are the owners and representatives of $ 140

Your petitioners show,

With the proceeds of the sales of the said Internal Improvement bonds, by the respective companies, their railroads in Tennessee were mainly completed by the purchase and laying of the rails thereon, and were equipped.

141 That for some years the interest on each issue of said bonds were provided by the respective railroad companies for whose benefit they were issued, according to the terms of the above Internal Improvement Act constituting said bonds liens on their respective roads to secure such payment.

142 That in the years 1869 and 1870, the General Assembly of Tennessee passed certain acts, under color of which efforts have been made to impair the aforesaid lien of the Internal Improvement bonds, and in fact utterly to destroy the same, by the attempted transfer of the lien by the State of Tennessee for its own benefit.

143 That when said scheme became known, the holders of the Internal Improvement bonds of Tennessee were greatly alarmed at this attempted invasion of their security, and sought the advice of counsel in respect of the same. There was furnished to them the opinion hereto attached, marked Exhibit "A." (Dunt's Opinion.) The subject of the unlawful attempt of the State of Tennessee was discussed frequently in the public prints, and on the various exchanges where the said securities were sold.

Your petitioners show,

144 That the Legislature of Tennessee undertook to empower the Mobile and Ohio Railroad Co. to issue a series of bonds to purport to be secured by the statutory lien belonging to your petitioners' bonds, and though your petitioner's bonds were still outstanding and unpaid, and even then in default as to interest.

When the said bonds were about to be issued under the name of Substitution Bonds, the bankers offering the same for sale in Geneva, London and

other financial centres, we are informed and believe, 145
were warned of the invalidity and injustice of their pretended claims to hold the liens conferred by statute on the outstanding bonds issued to build the roads. The sellers of the substitution bonds sought to sustain their position by legal advice, and obtained the opinion hereto attached, marked Exhibit "B." This opinion was attached to the prospectus for the sale of said bonds, and the purchasers thus became fully aware of the infirmity in their claims,
sufficiently disclosed even in said opinion in favor 146
of their validity.

Your petitioners likewise show,

That they have very recently learned of the existence and pendency of this suit, and that it was brought by some of these substitution bondholders, and that they claim therein to enforce your petitioners' lien on the Mobile and Ohio Railroad in their own favor, and of which, by virtue of the
original statutes. the Internal Improvement bond- 147
holders were made the owners and beneficiaries.

Your petitioners have also learned that the said cause has been set for hearing before this honorable court on April 22d, 1878.

Neither your petitioners, nor their trustee, nor any of the Internal Improvement bondholders, have been made parties to the said litigation, nor have they received notice of the same, except only as
they learned of the same quite lately from the 148
newspapers.

Your petitioners show,

That on or about the 16th day of January, 1878, there was issued the following:

149 **CALL FOR A MEETING OF TENNESSEE BONDHOLDERS.**

Notice.

The holders of the State of Tennessee bonds are earnestly requested to meet at the office of John B. Manning, No. 14 Wall street, on Wednesday, January 16th, at 12 o'clock.

E. D. MORGAN & CO.,
BROWN BROTHERS & CO.,
EUGENE KELLY,
150 GEDDES & SMITH,
JAMES G. KING'S SONS,
A. H. POMEROY,
GEORGE W. STANTON,
C. AMORY STEVENS.

That in pursuance of said notice a public meeting of the holders of Internal Improvement bonds above described, and of like character therewith, was held in the City of New York, and at said meeting your 151 petitioners were selected as a committee to represent and further the interests of said bondholders; and your petitioners accepted the said appointment, and since said time have been diligently engaged in preparations for the enforcement of the rights of said bondholders.

Your petitioners show.

That in pursuance of the duties devolved on them as the committee aforesaid, they have published 152 notices of their proceedings and they maintain a registry of said bondholders in the city of New York, where they have received authority to represent them from a large proportion of holders of Tennessee Internal Improvement bonds, aggregating

And your petitioners are advised by counsel, and respectfully submit to the Supreme Court, that the

said substitution bonds, claiming to succeed to your 153
petitioners' lien, by virtue of an *assignment* by the State of Tennessee, are to be fully heard before this court in respect of their *claim* to own the said lien at the time above mentioned.

While the said claim of the substitution bonds has been contested by Rudolph Merian and others, holders of the sterling mortgage bonds of the Mobile and Ohio Railroad, your petitioners have not been afforded any opportunity to be directly represented before the Circuit Court, or the honorable 154
the Supreme Court.

Your petitioners represent that the holders of the Internal Improvement bonds are very numerous, and reside in various parts of Europe and the United States, and rely in great part on your petitioners for the protection of their rights.

And now your petitioners humbly seek for a hearing before this court, at least as *amici curiæ*, in a matter involving the determination of questions so 155
nearly affecting them, and in respect of which the formation of any opinions by the Supreme Court in the absence of the direct and efficient representation must seriously prejudice the future prosecution of their rights.

And your petitioners pray for leave to intervene herein, and that if need be the causes be remanded so that they may be made parties thereto:

And your petitioners pray for such other relief as 156
may be just in the premises.

EUGENE KELLY.
PETER GEDDES.
JOHN T. TERRY.
J. G. K. DUER.
R. S. MORAN.

George Hoadly,
E. L. Andrews,
Edgar M. Johnson,
Solicitors and of Counsel for Petitioners.

157 UNITED STATES OF AMERICA,
Southern District of New York, } ss.

being duly sworn, deposes and says:

That he is one of the petitioners named in the foregoing petition; that he has read the said petition and knows the contents thereof; that the said petition is true of his own knowledge, except as to the matter of record referred to therein, and as to said matter he believes the same to be true.

158 Sworn to before me this
day of April, 1878. }

159

160

COMPLAINANTS' EXHIBIT No. 4. 161

W. H. D. L., Sp'l Ex'r.

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT, EASTERN DISTRICT OF TENNESSEE.

IN EQUITY. 162

CALVIN AMORY STEVENS, *on behalf of the Holders of Internal Improvement Bonds of Tennessee, issued to the East Tennessee and Virginia Railroad Company, under the Act of Jan.* 15*th*, 1852,

versus 163

The East Tennessee, Virginia and Georgia Railroad Company.

BILL FOR RELIEF.

E. L. ANDREWS and
GEORGE HOADLY,
Solicitors, and of Counsel for Complainant. 164

165 UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT—EASTERN DISTRICT OF TENNESSEE.

(*In Equity.*)

To the Honorable, the Judges of the Circuit Court
of the United States for the Sixth Judicial Cir-
166 cuit and Eastern District of Tennesse:

Your orator, Calvin Amory Stevens, who is a citizen of the State of New York, brings this his bill of complaint against the East Tennessee, Virginia and Georgia Railroad Company, which is a citizen of the State of Tennessee, and is a corporation organized, existing and transacting business in said State, by virtue of and under Acts of its General Assembly.

167 And, thereupon, your orator complaining shows unto your Honors, that, on the 15th day of January, 1852, the General Assembly of the State of Tennessee passed an Act in the following language: "An Act to authorize the Governor of the State to issue Bonds of the State of Tennessee to the East Tennessee & Virginia Railroad Company."

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That for the purpose of aiding the East Tennessee & Virginia Railroad
168 Company in the construction of bridges on their said railroad, the Governor of the State is hereby authorized and required to issue coupon bonds of the State of Tennessee, to said company, to an amount not exceeding the sum three hundred thousand dollars, bearing an interest of six per centum per annum payable semi-annually at such place as the president of said company may designate, which bonds

shall be payable in not less than thirty, nor more 169
than forty years after date, and at such place as
said president may designate, but said bonds are
to be issued as hereinafter provided.

SEC. 2. Be it enacted, That whenever it shall be made known to the Governor to his satisfaction by the president and directors of said company, that forty miles of said railroad have been put under contract and that the work on the same is progressing to completion, and that said company has 180 sufficient *bona fide* subscription to grade and put the necessary culverts on said section of forty miles ready for the iron rails, which subscription shall be adjudged solvent and valid by the Board of Internal Improvements, or any chief-engineer or other persons appointed to examine and report upon works of internal improvement, then it shall be the duty of the Governor to issue to said Company coupon bonds of the State of Tennessee, of the description aforesaid, to an amount not exceeding 171 one hundred thousand dollars, to be expended on the bridges necessary to be constructed on the said section of forty miles. And in like manner when a second section of forty miles shall have been put under contract, and the work thereon progressing, and said company has sufficient *bona fide* subscription to grade and put on the necessary culverts as aforesaid, ready for the iron rails, which subscription shall be adjudged solvent and valid by the Board of Internal Improvements, and all of 172 which facts shall be made known to the Governor, in the manner aforesaid to his satisfaction, then it shall be the duty of said Governor to issue to said company, coupon bonds of the State of Tennessee, of the description aforesaid, for an amount not exceeding one hundred thousand dollars, to be expended on the bridges necessary to be constructed

173 on said section of forty miles, and a like provision with like restrictions and conditions in all respects is hereby made for an additional section of forty miles of said railroad, the funds to be used in construction of the necessary bridges on said last-named section.

SEC. 3. Be it enacted, That so soon as the bonds are issued for the first section of forty miles, as provided in the first section of this Act, the said
174 bonds shall, on the issuance thereof, constitute a lien upon all the stock of said company, upon the road-bed, masonry, bridges and other property of said company, and the State shall be invested with such lien on and by virtue of the issuance of said bonds, without a deed from the company for the payment of said bonds and interest accruing thereon; and whenever the bonds are issued for either or both of said sections of forty miles, as specified in the first section of this Act, the State of Tennes-
175 see shall on and by virtue of the issuance of said bonds be invested with a like lien or mortgage on said sections for the payment of said bonds and the interest thereon, including road-bed, masonry and bridges, on all of the said sections provided for in this Act, and on all of the stock of said company, without a deed from the company, and said lien or mortgage shall have priority over all other claims against said company, and all liens created by the company, after the issuance of the bonds for the
176 first forty miles of said railroad, shall be void as to the liens of the State of Tennessee hereby created for the payment of the bonds issued under the provisions of this Act, and the accruing interest thereon, and the said liens of the State shall extend to and embrace the entire railroad, its superstructure and equipments after completed, and so continue until said bonds and interest thereon are paid

off and discharged, and without a deed from the 177
company.

SEC. 4. Be it further enacted, That the legisla-
ture of this State shall have power to enact any
law or laws that may hereafter be deemed neces-
sary to protect the interest or credit of the State
against loss or damage on account of the issuance
of said bonds, and to provide for the more speedy
and certain payment by the company of said
bond and interest, not impairing the vested 178
rights of the stockholders and that for that pur-
pose and the purposes of notice of the existence
of this Act, the same is hereby declared to be a pub-
lic law.

SEC. 5. Be it further enacted, That before
the Governor shall issue any bonds under
the provisions of this Act, he shall require
the engineer of said company to examine
the premises where said bridge or bridges are to be
built, and ascertain as near as he may be able, the 179
cost of construction of such bridge or bridges with
good materials, and in a good and substantial man-
ner, and report the same under oath to the Govern-
or; and it shall not be lawful for said Governor to
issue bonds as aforesaid, for a greater amount
for the construction of such bridge or bridges than
the sum specified in the report of said engineer, and
the provisions of this Act, shall only extend to and
include a bridge across the Watauga river, two
bridge across the Holston river, and a bridge across 180
Lick creek on the line of said road. And no bonds
shall issue under this Act, unless upon the written
affidavit of the President of said company, and
a resolution of a majority of the directors
thereof, and that said bonds when issued shall
not be issued for any other purpose than procur-
ing the means for the construction of said

181 bridge or bridges, and it shall not be lawful
for said bonds to be used for any other purpose.
Provided, the estimates of said engineer shall include
the masonry on the line of said road. Provided,
that the bonds of the State shall not be issued
to build the bridges herein provided for, until
there is stock subscribed by good and solvent individuals,
corporations, companies or counties sufficient
to grade the road and put the timbers on the same
from Knoxville to the Virginia State line, which facts
182 shall be certified to the Governor of the State by the
written affidavit of the president and directors of
the said road. And provided further, that the three
hundred thousand dollars of bonds hereinbefore authorized
to be issued to said company, may be included
with the aggregate amount of stock subscribed
by good and solvent individuals, corporations,
companies or counties, and if the said
sum of three hundred thousand dollars, together
with said subscriptions of stock in said
183 road, shall be sufficient to grade and build the
bridges and masonry thereon, and otherwise prepare
the said road for the iron rails, which facts
shall be made to appear by the report of the chief
engineer of said road on oath to the Governor, then
it shall be the duty of the Governor to issue to the
said company upon the application of the president
and a majority of the directors of said company,
the bonds of the State for three hundred thousand
dollars, as provided in the first section of this Act,
184 and the proceeds of said bonds shall be applied to
the construction of the bridges specified in the fifth
section of this Act, and the masonry on the line of
the said road, and the surplus, if any, to any other
bridges on the line of said road, or other purpose
necessary to prepare the said road for the iron
rails.

SEC. 6. Be it enacted, that it shall be the duty of 185
said company to deposit in the Bank of Tennessee, at Nashville, at least fifteen days before the interest becomes due, from time to time upon said bonds issued as aforesaid, an amount sufficient to pay said interest, including exchange and necessary commission, or satisfactory evidence that said interest has been paid or provided for, and if said company fail to deposit said interest as aforesaid, at the time aforesaid, or furnish the evidence aforesaid, it shall
be the duty of the Comptroller to report that fact to 186
the Governor, and the Governor shall immediately appoint some suitable person or persons, at the expense of the company, to take possession and control of said railroad, and all assets thereof, and manage the same and receive the rents, issues, profits and dividends thereof, whose duty it shall be to give bonds and security to the State of Tennessee, in such penalty as the Governor may require for the faithful discharge of his or their duty as receiver or
receivers, to receive said rents, issues, profits and 187
dividends, and pay over the same under the direction of the Governor towards the liquidation of such unpaid interest. And if said company fail or refuse to deliver up said road to the person or persons so appointed by the Governor, the said persons so appointed shall report that fact to the Governor, who shall forthwith issue his warrant, directed to the Sheriffs of counties, through which said road shall run, commanding them to take possession of
said road, fixtures, equipments, and re- 188
ceive the same, and manage the entire road until a sufficient sum shall be realized, exclusive of the costs and expenses, incident to said proceedings to pay off and discharge the interest as aforesaid, due on said bonds, which being done, the receiver shall surrender said road and fixtures and equipments to said company. The Comptroller shall from time to

189 time, settle the accounts with the receiver, and the balances shall be deposited in the Treasury of this State. The Comptroller is authorized, and it is made his duty upon his warrant to draw from the Treasury any sum of money necessary to meet the interest on such bonds as may not be provided for by the company, as provided for in this Act, and the comptroller shall report thereof to the General Assembly from time to time.

190 SEC. 7. Be it enacted, That if said company shall fail or refuse to pay any of said bonds when they fall due, it shall be the duty of the Governor to notify the attorney general of the district in which is situated the place of business of said company of the fact, and thereupon, said attorney general shall forthwith file a bill against said company in the name of the State of Tennessee, in the Chancery or Circuit Court of the county in which is situated said place of business, setting forth the facts, and there-
191 upon said Court shall make all such orders and decrees in said cause as may be deemed necessary by the Court to receive the payment of said bonds, with the interest thereon, and to indemnify the State of Tennessee against any loss on account of the issuance of said bonds by ordering the said railroad to be placed in the hands of a receiver ordering the sale of said road, and all the property and assets attached thereto, or belonging to said company, or in such other manner as the Court may
192 deem best for the interest of the State.

SEC. 8. Be it enacted, That at the end of five years after the completion of said road, said company shall set apart one per centum per annum, upon the amount of bonds issued to the Company, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the company shall pay into the treasury of the State, after assigning them to the Governor, and for which the Governor shall give said company a receipt, and as between the State and said company, the bonds so paid in shall be a credit upon the bonds issued to the company. And said bonds so paid in, and the interest accruring thereon, from time to time, shall be held and used by the State as a sinking fund for the payment of the bonds issued to the company, and should said company repurchase any of the bonds issued to it, under the provisions of this act, they shall be credited as aforesaid and cancelled. And should said company fail to comply with the provisions of this section, it shall be proceeded against as provided in the sixth section of this act. 193 194

SEC. 9. Be it enacted, That in the event any of the said road, fixtures or property belonging to said road, shall be sold under the provisions of this act, it shall be the duty of the Governor to appoint an agent for the State, who shall attend said sale and protect the interest of the State, and shall, if necessary to protect said interest, buy in said road or property in the name of the State, and in case said agent shall purchase said road for the State, the Governor shall appoint a receiver who shall take possession of said road and property, and use the same as provided for in the sixth section of this act, and said receiver shall settle with the comptroller semi-annually until the next meeting of the General Assembly. 195

196 Your orator further shows that on the 21st of February, 1852, the General Assembly of the State of Tennessee enacted the following statute entitled "An Act to authorize the renewal of certain bonds of the State of Tennessee."

Whereas, most of the bonds heretofore issued by the State of Tennessee, were issued without having

159 coupons attached thereto, which subjects the holders to great inconvenience and the State to great
expense in the payment of the interest thereon.
For remedy thereof:

SEC. 1. Be it enacted by the General Assembly of
the State of Tennessee, that the Governor cause to
be prepared a sufficient number of coupon bonds of
the State of Tennessee of the denomination of $1,000
each, made payable to   or order of similar
198 language as nearly as practicable, and containing precisely the same obligations of the bonds which have
been heretofore issued without coupons, except
that the renewed bonds shall be made to fall due
on the 1st day of January next succeeding the
maturity of the old bonds, for which they are substituted, and that the coupons shall fall due on
the 1st day of January and 1st of July of each year,
and which said bond shall contain at their head,
and on their face, in conspicuous letters, the words
199 "Renewed Bonds."

SEC. 2. Be it enacted, That on application of any
person holding any bond or bonds heretofore issued
by the State without coupons, and desiring to exchange said bond or bonds for like amount in bonds
prepared under the provisions of the first section of
this act, then it shall be the duty of the Governor
to sign the number of the renewed bonds applied
for, and cause them to be countersigned by the
200 Secretary of State, and the great seal of the State
to be thereto affixed, and the coupon thereto to be
filled up and signed by the Comptroller, and upon
the surrender of the bond or bonds, so desired to be
exchanged, the Governor shall issue and deliver to
the person so applying an equal amount in the renewed bonds, prepared as aforesaid.

SEC. 3. Be it enacted, That the Governor shal 201
cause each of the old bonds thus surrendered to be cancelled and be filed away by the Secretary of State in his office.

SEC. 4. Be it enacted, That the Secretary of the State shall take and preserve a receipt from the person receiving a new bond, which shall contain the number, date and time of maturity of said bond, and also the number of the old bond in lieu of
which it issued, and on each renewed bond he shall 202
cause to be entered the number of the old bond in lieu of which it was issued.

SEC. 5. Be it enacted, That upon the presentation of any old bond in exchange for a renewed bond, it shall be the duty of the Comptroller to compute the interest due upon said old bond up to the 1st of January, or 1st of July, as the case may be, immediately preceding the falling due of the first coupon
on the renewed bond given in exchange for said old 203
bond, and to issue his warrant to the Treasurer for the payment of said interest, and that for all the services performed by the Secretary of the State, under the provisions of this act, he be allowed one dollar for each renewed bond so issued, and that the same sum be allowed the Comptroller for his services, to be paid by the person applying for said bond.

SEC. 6. Be it further enacted, That the person 204
receiving said renewed bonds shall also pay the expense of the engraving the same.

SEC. 7. Be it further enacted, That the different internal improvement companies to whom the bonds of the State may be lent under the different acts of the present Legislature, shall pay the expense of engraving and preparing the same.

205 SEC. 8. Be it enacted, That the Governor of the State shall cause to be engraved or printed, the bonds which may be issued under the acts of the present General Assembly as a loan to internal improvement companies, and the said bonds shall bear date on the first day of January, prior to their issuance, and the coupons thereto shall be payable on the first days of January and July of each year.

SEC. 9. Be it enacted, That the coupons shall be
206 signed and numbered by the Comptroller, and the bonds shall be countersigned, sealed and numbered by the Secretary of State, and upon delivering said bonds to the company authorized to receive the same, the Secretary of State shall take a receipt, reciting the number, date and amount of said bonds in a well-bound book to be deposited in his office, and the Comptroller and Secretary of State shall each be entitled to receive twenty-five cents for each bond so prepared, to be paid by the party
207 receiving said bonds.

SEC. 10. Be it enacted, That when it is proved to the satisfaction of the Comptroller of the State that coupons with interest, attached to State bonds, have been lost, and an affidavit to that effect has been or shall be made by the holder of the bond, and a bond of indemnity is executed to the State, the Comptroller is and shall be authorized to issue his warrant for the payment of the amount of the interest due, and for which the coupons issue, which
208 payment is to be made to the *bona fide* holders of the bond of the State.

Your orator shows, that the East Tennessee & Virginia Railroad Company was at the times aforesaid a body politic, chartered by the acts of the General Assembly of the State of Tennessee. The object and purpose of the creation of said corporation was the construction, completion and operation 209 of a line of railway for the transportation of passengers and freight to and from the cities of Bristol and Knoxville, in the State of Tennessee. For this purpose the said corporation was authorized to borrow money, and to impose liens upon its property to provide for and insure the payment of its liabilities.

Your orator refers to the several statutes of Tennessee concerning the said corporation, and prays further reference thereto at the hearing of this cause, so far as the same may be material. 210

Your orator shows, that in pursuance of the foregoing acts there was delivered to the East Tennessee & Virginia Railroad Company, Internal Improvement Bonds of the State of Tennessee, the same of the following description:

Color—White.
+ Letter B. +
Numbers—Number 1 to 300 inclusive.

A copy of one of said bonds and coupons is attached to this bill, marked "Exhibit A," and is prayed 211 to be taken as a part hereof. The other bonds and coupons of said issue are of like tenor, differing only in numbers and dates.

Your orator shows, that the said bonds to the amount of ($300,000) three hundred thousand dollars were received by or on behalf of the East Tennessee & Virginia Railroad Company, and were by the said company negotiated and sold to *bona fide* holders. At least one hundred of the said bonds being for the amount of one hundred thousand dol- 212 lars are now outstanding in the hands of *bona fide* holders. Your orator is the owner and holder of twenty of said bonds, each being for the sum of one thousand dollars. Your orator is likewise the owner and holder of nine coupons attached to each one of said bonds, the same representing the installments of interest for four and one half con-

213 secutive years, beginning with the installment that fell due on the 1st day of January, 1876, and including the installment that fell due on the 1st day of January, 1880, amounting in the aggregate to twenty-seven per cent. of the principal of each one of the aforeaid bonds.

Your orator shows, that the holders of said bonds are very numerous, and reside in foreign countries as well as in different parts of the United States. Their names are in great part unknown to your
214 orator, and they are, therefore, not made parties hereto. But this bill is filed on behalf of all holders of said bonds who may come in and contribute to the expenses of this litigation.

Your orator shows, that since the negotiation and sale of said bonds, the East Tennessee & Virginia Railroad Company was, in pursuance of law, consolidated with East Tennessee & Georgia Railroad Company, under the name and title of the East Tennessee, Virginia & Georgia Railroad Com-
215 pany. The latter corporation now owns, possesses and operates the aforesaid East Tennessee & Virginia Railroad.

And further complaining, your orator shows that the East Tennessee & Virginia Railroad Company, and its successor company, the defendant herein, have failed to comply with the provisions of the General Internal Improvement Law, above recited, for the payment of said installments of interest on your orator's bonds and on the bonds of other
216 holders in like situation, and the coupons of the bonds aforesaid are now in default and unpaid.

Your orator charges like defaults upon the coupons that have fallen due and have become payable by the East Tennessee & Virginia Railroad Company, according to the terms of the statute, on the first day of January, 1877, on the first day of July, 1877, on the first day of January, 1878, on the first

day of July, 1878, on the first day of January, 217
1879, on the first day of July, 1879, on the first day
of January, 1880. The State of Tennessee is likewise
in default on said coupons.

Your orator is entitled to the enforcement of the lien aforesaid, for the payment of interest on his bonds and those of other holders.

Your orator likewise shows that by virtue of his
right in equity as a lien holder, and the terms of
statutory mortgage above described, he is entitled
to have the possession of the East Tennessee and 218
Virginia Railroad, in the State of Tennessee, secured
by a receivership for the benefit of the holders of
the Internal Improvement bonds aforesaid, issued
to the East Tennessee & Virginia Railroad Company,
and for the payment of the interest thereon.
The Receiver or Receivers so to be appointed should
apply the revenues of the property to the payment
of the overdue interest on said bonds.

Your orator shows that during the aforesaid
periods of default, the officials of the State of Tennessee 219
named in the sixth section of the said Act,
have failed to take the action required thereby, and
your orator is informed and believes that they
claimed and claim to be bound by subsequent acts
of the General Assembly of Tennessee, purporting
to divest the liens and rights of the said bondholders.
The present Comptroller of the State has been in
office for several years, but has never made the report
required by said Act. Your orator is also
informed that the respondent claims that the aforesaid 220
bondholders have no interest in the said statutory
lien.

Your orator shows that he is remediless at law, and without the intervention of a Court of equity.

Wherefore, your orator prays that the priority of the said lien of the Internal Improvement bonds

221 and coupons aforesaid upon all the railroad, equipment, income, tolls, rights, privileges, property and franchises of said East Tennessee & Virginia Railroad Company within the State of Tennessee, may be established above all other claims and demands, as constituting the first and paramount incumbrance on said property and rights.

That the income of said property arising from its use in said State may be applied to the payment of interest accrued and to accrue upon the bonds 222 hereinbefore described, and as may appear by proofs before a Master to be still outstanding and unpaid. That the said property may be seized by order of this Court and placed in the hands of receivers, to be administered according to the said liens and trusts declared upon it, and to which it has been pledged and covenanted to be applied. That your orator may have such writs and orders of injunction *pendente lite* and thereafter as may be proper for the due enforcement of his rights.

223 And may it please your Honors to grant unto your orator such further or other and different relief in the premises as the nature of the case may require, and as may be consistent with equity and good conscience.

May it please your Honor to grant unto your orator writs of subpœna of the United States of America, to be directed to the said East Tennessee, Virginia & Georgia Railroad Company, and against all other persons interested in this matter and amen-
224 able to the jurisdiction of this Court, when discovered, thereby commanding them and every one of them, at a certain day, and under a certain penalty therein to be specified, personally to be and appear before your Honors in this honorable Court, and then and there to answer all and singular the premises, and to stand to, perform and abide such or-

ders and decrees therein as to your Honors shall 225
seem meet.

E. L. ANDREWS and
GEORGE HOADLY,
Solicitors and of Counsel for Complainant.

Exhibit "A."

UNITED STATES OF AMERICA.

M. No. 52. B. M 226

STATE OF TENNESSEE.

Know all men by these presents, That the State of Tennessee acknowledges to owe to or order, one thousand dollars, lawful money of the United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1892, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation of the 227 coupons hereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an Act of the General Assembly of said State, passed at its session of 1851–2.

In witness whereof, I, W. B. CAMPBELL, Governor of said State, have hereunto signed my name, and caused the same to be countersigned by the Secretary of said State, and the 228 Great Seal of said State to be hereunto affixed at Nashville, this first day of January, 1852.

W. B. CAMPBELL,
Governor.

W. B. A. RAMSEY,
Secretary of State.

$1,000. **$1,000.**

229 $30. $30.

THE TREASURER OF THE STATE OF TENNESSEE will pay the bearer thirty dollars, in the City of New York, on the 1st day of January, 1877, being the semi-annual interest then falling due on bond No. 52.

ARTH. B. CROZIER,
Comptroller.

$30. $30.

230

COMPLAINANTS EXHIBIT No. 5.

W. H. D. L.—Spl. Exr.

MOTHERAL.

Deposition of N. W. MOTHERAL, taken at Cleveland, Tennessee, on the 10th day of February, 1879, before a sub-committee of Investigation, composed of Senator Smith and Representative Driver.

231 Said witness being duly sworn, states:

Q. Please state your residence, your profession?

A. My residence is Cleveland, Tennessee. I am a minister of the gospel, of the Cumberland Presbyterian church.

Q. Did you know T. H. Calloway in his life-time, and did you hear a confession made by him before his death?

A. I knew him in his life-time, and he professed 232 religion under my ministry and joined my church, and expressed great dissatisfaction with his connection with the railroad, as president, stating that a man could not be a Christian and occupy his position, and declared his determination to resign his position. Mr. Calloway told of how he managed to get a certain bill through the legislature. I rather think it was the first Omnibus bill, but will not be

certain of that, it may have been the bill to turn 233
over the railroad stock to the Turnpike companies.
He said he only liked one man to control it—he
said he studied that man to find out his vices, and
learned that it was women and whisky—he then
employed a prostitute (Beckey Higgins I think was
her name), to get him drunk on wine, and keep him
at her house until the vote was taken the next day,
which she did, and the bill was passed. He told
me at another time, just before his death, and
Joseph Calloway, his son, reiterated the same thing, 234
recently, that Major R. T. Wilson made a proposi-
tion in writing, to run down the stock of the road or
water it and sell out to an English company, and
thus cheat the stockholders out of their stock, which
he said he rejected with indignation. Major Jack-
son did the same thing in a letter to Calloway. Mr.
Calloway further told me that he had frequently
employed David Nelson to assist him in getting his
measure through the legislature, and that Nelson
had applied to him for money, as pay for the same, 235
in a way that was offensive to said Calloway. I
think he said he had given him a suit of clothes,
and perhaps he had afterwards applied to him for
money more than once, which made Calloway angry
—as he was extorting it from him.

Q. Was Mr. Calloway in a state of sound mind when these statements were made, and up to his death?

A. Yes, sir; he was.

Q. Do you know anything of some letters touch- 236
ing these transactions, if so state all you may know
about it?

A. Thos. Calloway, junior, came to me last Sunday night and told me that Mr. Jesse Gaut and Mr. Mayfield had telegraphed to him, as attorneys of the railroad, to come to Cleveland and get some letters touching those railroad propositions—saying

237 that they said his father's character was involved—and he asked my advice about the matter; I advised him to have nothing to do with it.

Q. Do you know anything of the disposition of those papers?

A. I do not. I understand that Mrs. Julia Calloway gave them to Samuel Reese, Depot Agent, and he turned them over to C. M. McGhee.

N. W. MOTHERAL.

238

COMPLAINANT'S EXHIBIT NO. 6.

W. H. D. L., Spl. Exr.

GALLOWAY.

The deposition of M. C. Galloway, taken before the committee at Nashville, Feb. 7th, 1879.

The said witness being sworn deposed as follows:

239 Q. What is your connection with the *Memphis Appeal* newspaper? If so, how long have you been connected with it?

A. I am now one of the editors of that paper, and have been connected with it as editor since 1870.

Q. Were you interested in it as a stockholder or otherwise before 1870?

A. I was not.

Q. Do you own stock in it now or have you since 1870?

A. Yes sir, one-half interest now.

240 Q. Was Col. Dupree, now of Texas, connected with, and interested in, the paper, in 1872 or 1873, or along about that time?

A. He was a stockholder in 1872, I think we bought him out in 1873, paying him $14,000 for his interest.

Q. You remember the Funding Act of 1873?

A. Yes, sir.

Q. Was any proposition made to you or to your associates in control of the paper, to give you or your firm the prospective profits on $50,000 of Tennessee bonds, realized from an expected rise in Tennessee bonds, under the Funding Act, to get the influence of your paper in advocating its passage? 241

A. Never, sir.

Q. Was any proposition of this kind, or any one of like nature, character or form, made to you or your associates to secure the influence of your paper in support of that Act? 242

A. There were propositions to this effect, which after correspondence and negotiations failed.

Q. Who made these or such like propositions?

A. They were made through Col. L. J. Dupree, to the *Appeal* Publishing Company, but I know not who made them.

Q. Did you have individual propositions made to you, in this regard?

A. I did not; I had an individual correspondence on the subject, which failed. 243

Q. Col., if you have no objections, will you please state with whom you had these individual negotiations, or this individual correspondence?

A. If I am not compelled I would like not to mention the man's name. It was a private letter and I dislike to expose privatecorrespondence; the letter I wrote to the gentleman or the letter received was accidently found at the Maxwell House, and I desire to say that personally I have no objection to its publication. 244

Q. Col., if you have no objection, will you please, without giving names if you so desire, state the amount or amounts that you understood, to be offered to the *Appeal* Company, or to you individually in reference to the Funding Act?

A. Never a dollar; I never heard of a Funding ring except through the *Memphis Avalanche*; that

245 paper published an article or articles reflecting upon the integrity of Gov. Brown, and it, after or about the time before Gov. Brown retired, upon his demand for an unqualified retraction of its article or articles, did so, and published an article highly complimentary to Gov. Brown. He went to Brownsville, and sent from there a letter, by an envoy extraordinary and this brought about the retraction and a complimentary editorial as to his integrity. Kellar wrote a letter
246 disclaiming responsibility for the articles.

Q. The *Memphis Appeal* did support the Funding Act?

A. Yes, sir, it did, because Brown and his opponent during the canvass endorsed it, and Brown's triumphant election we regarded as making it the Democratic policy, and hence we supported it, and if times now were like they were then, we still think it would be the best policy for the party in the State.

247 Q. A receipt has been published or a copy of a receipt from you or the *Appeal* Company, to a certain railroad president or company, for a considerable sum of money; if you have no objection, please give the committee an explanation of it?

A. In reply to this question, I will say that pending the Gubernatorial canvass of 1870, the *Appeal* made a bitter onslaught on the bogus bonds of the State, especially the Mineral Home bonds, and the Brownlow administration. In this policy, we had
248 three objects: the first was to save the tax-paying people from the taxes imposed to pay these bogus bonds. Second, to help elect Governor Brown, and third, to injure the Republican party. This bitter war, we continued during the Gubernatorial canvass in 1870, and in 1871, after Brown's election. In September, 1871, Maj. M. J. Wicks addressed a note to me, to meet him at his bank. In response

to his invitation I repaired to his bank; there I 249
found M. J. Wicks, President of the Memphis &
Charleston Railroad, and Wm. B. Greenlaw, President
of the Little Rock Railroad. Maj. Wicks took
from his vest pocket an editorial in regard to the
liabilities of the State, and asked me who was the
writer of said editorial; I informed him that I wrote
it. He said that that article was worth $50,000 to
his road. The legislature had passed an Act allowing
the railroads to retire their indebtedness, and
then I got an insight into the whole thing. Maj. 250
Wicks and W. B. Greenlaw insisted that I continue
the *Appeal* on the same line of policy, and as it
made hundreds of thousands of dollars for them and
the other roads, they would make it to my interest.
Mr. Wicks voluntarily said he would give the *Adpeal*
$5,000 for every depreciation of five per cent.
in the bonds. With this *stimulus* the *Appeal*,
made a furious attack upon the bogus bonds, and
continued to depress the bonds until the *Appeal*
made $10,000 under Wick's voluntary contract with 251
it, and come within a quarter per cent. of making
$15,000. When payment was demanded, Wicks requested
me to appear before the Directors of the
Memphis & Charleston Railroad, which I did. After
I got there, we had nothing in a tangible shape to
present to the Board, and Wicks made out an account
embracing the services of the *Appeal* and its
editors under the contract. Wicks paid the account
after me agreeing to deduct $2,500.

Q. What about your enthusiastic support of Gov. 252
Brown?

A. That support was prompted by two reasons: first, I regard him as one of the best and ablest Governors Tennessee ever had; and second, is that I know him, in an experience of forty years with public men, to be one of the noblest men that ever lived.

M. C. Gallaway.

253 COMPLAINANT'S EXHIBIT, NO. 7.

W. H. D. L., Spl. Exr.

COPY FROM CASH BOOK OF CALVIN STEVENS, DECEASED.

1873.		
Sept. 5.	By Sec. State of Tenn. Registering 84 O. Bonds, . .	$84 00
"	By Sec. State of Tenn. Funding 42 New Bonds, .	42 00
"	By Travelling expenses to Tennessee, ...	74 00
		$200 00

COMPLAINANT'S EXHIBIT NO. 8.

W. H. D. L., Spl. Exr.

254

THE CREDIT AND RESOURCES OF THE STATE OF TENNESSEE.

The following communication to the New York *Times*, written by the undersigned, is published in pamphlet form at the request of several former citizens of Tennessee now resident in New York. All the statistical facts given are derived from the official reports of the officers of the State.

S. WATSON,

255 *Agent for the State of Tennessee.*

TENNESSEE STATE CREDIT AND RESOURCES.

To the Editor of the New York Times:

A communication appeared in your paper of the 1st of January, from your correspondent in Nashville, signed "Philo," which does great injustice to the State of Tennessee, and requires some notice from the friends of the State.

The political part of your correspondent's letter I
256 have nothing to do with, excepting so far as it relates to emigration. "Philo" asserts that Northern men are driven away from Tennessee, and that there are not now in Tennessee one-half as many men of Northern birth as there were two years ago. That some Northern men in consequence of their disappointment in their business calculations, and some in consequence of hostility excited by their political course, have left the State may be true, but a very large number remain. They are scattered all over the State, and can be counted by thousands. The

writer of this knows that the rich iron regions below 257
Nashville, lying between the Cumberland and Tennessee
River, is rapidly attracting emigration. Substantial
men from the North have come there and
invested their hundreds of thousands in iron property,
and in iron works that have been idle during
the war, and are now putting them into operation.
It is also known to the writer that Northern emigration
is setting in quite rapidly to the counties bordering
on the Chattanooga Railroad and its branches.
In three counties they have brought in with them 258
the past year capital largely exceeding $200,000. The
Nashville press chronicles almost every week the arrival
of parties to investigate the advantages and resources
of Tennessee; notwithstanding the erroneous
impressions of the State spread abroad by the political
press and such correspondents as "Philo."

The bitterness of party feeling is very much softening
down in Tennesse. It is true that men who
come into the State as blatant politicians, and who
expect to live upon politics, do excite the enmity of 259
the political party against which they array themselves;
but men who come into the State to cast their
destinies with its people by accumulating wealth
and developing the resources of the country, are cordially
welcomed, everywhere and by everybody.

But the parts of your correspondent's letter which
I wish especially to notice are his attacks upon the
good faith of the State, and his efforts to ruin its
credit by charging upon the State reckless extravagance
in aiding railroads, most of which he deems 260
to be worthless.

"Philo" charges that the State refused, upon a
technicality, to take the notes of the old State Bank.
She refused to take them because she did not consider
herself bound in honor and good faith to do
so. An attempt was made by some of her citizens
to force this depreciated currency upon her for taxes,

253 COMPLAINANT'S EXHIBIT, NO. 7.

W. H. D. L., Spl. Exr.

COPY FROM CASH BOOK OF CALVIN STEVENS, DECEASED.

1873.		
Sept. 5.	By Sec. State of Tenn. Registering 84 O. Bonds, . .	$84 00
"	By Sec. State of Tenn. Funding 42 New Bonds, .	42 00
"	By Travelling expenses to Tennessee, ...	74 00
		$200 00

COMPLAINANT'S EXHIBIT NO. 8.

W. H. D. L., Spl. Exr.

254 THE

CREDIT AND RESOURCES

OF THE

STATE OF TENNESSEE.

The following communication to the New York *Times*, written by the undersigned, is published in pamphlet form at the request of several former citizens of Tennessee now resident in New York. All the statistical facts given are derived from the official reports of the officers of the State.

S. WATSON,

255 *Agent for the State of Tennessee.*

TENNESSEE STATE CREDIT AND RESOURCES.

To the Editor of the New York Times:

A communication appeared in your paper of the 1st of January, from your correspondent in Nashville, signed "Philo," which does great injustice to the State of Tennessee, and requires some notice from the friends of the State.

The political part of your correspondent's letter I
256 have nothing to do with, excepting so far as it relates to emigration. "Philo" asserts that Northern men are driven away from Tennessee, and that there are not now in Tennessee one-half as many men of Northern birth as there were two years ago. That some Northern men in consequence of their disappointment in their business calculations, and some in consequence of hostility excited by their political course, have left the State may be true, but a very large number remain. They are scattered all over the State, and can be counted by thousands. The

writer of this knows that the rich iron regions below Nashville, lying between the Cumberland and Tennessee River, is rapidly attracting emigration. Substantial men from the North have come there and invested their hundreds of thousands in iron property, and in iron works that have been idle during the war, and are now putting them into operation. It is also known to the writer that Northern emigration is setting in quite rapidly to the counties bordering on the Chattanooga Railroad and its branches. In three counties they have brought in with them the past year capital largely exceeding $200,000. The Nashville press chronicles almost every week the arrival of parties to investigate the advantages and resources of Tennessee ; notwithstanding the erroneous impressions of the State spread abroad by the poitical press and such correspondents as "Philo."

The bitterness of party feeling is very much softening down in Tennesse. It is true that men who come into the State as blatant politicians, and who expect to live upon politics, do excite the enmity of the political party against which they array themselves ; but men who come into the State to cast their destinies with its people by accumulating wealth and developing the resources of the country, are cordially welcomed, everywhere and by everybody.

But the parts of your correspondent's letter which I wish especially to notice are his attacks upon the good faith of the State, and his efforts to ruin its credit by charging upon the State reckless extravagance in aiding railroads, most of which he deems to be worthless.

"Philo" charges that the State refused, upon a technicality, to take the notes of the old State Bank. She refused to take them because she did not consider herself bound in honor and good faith to do so. An attempt was made by some of her citizens to force this depreciated currency upon her for taxes,

261 but the Supreme Court of the State, composed of men of the highest integrity and ability, unanimously decided that she was under no obligations to do so; and this decision has the sanction of the best legal minds in the State. The Bank of Tennessee is now being wound up. Its debtors can pay their debts in the notes of the bank. The policy of the State is to let as much of the circulation of the bank be redeemed in this way as possible, and after the debts are paid, if any notes remain unredeemed,
262 and if there should be even a moral obligation upon the State to redeem them, it will certainly do so. For in no State is the fidelity to obligations more deeply seated than in Tennessee. This has been proved by her past and will be proved by her future history. The word "repudiation" is an odious one to every Tennesseean. No political press and no demagogue of any political party has ever dared utter it to her people.

But the injurious charge, or insinuation rather, is
263 made by your correspondent, that the State has been guilty of reckless extravagance in aiding worthless railroads. That, in an appropriation of several millions of dollars, some roads should get aid that are not deserving, would of course be expected. But a detailed examination of railroads of Tennessee will show that there are but few if any roads of this character aided.

The Edgefield and Kentucky Railroad runs from Nashville to the Tennessee and Kentucky State line.
264 There it was expected to be united to the Henderson and Nashville Road, which runs from the point of junction through Hopkinsville and Madisonville to Hendersonville and Evansville on the Ohio River. The Kentucky Road, not having been completed before the war, and the Edgefield and Kentucky Road consequently ending in the woods, its interest has never been paid. But the Henderson and Nashville

is now in rapid progress. The road is graded from 265
the State line north to Hopkinsville, a distance of about 25 miles, and the iron rails probably laid by this time to that point. Much of the road is also graded from the Ohio River south, and a good deal of track laid.

The length of these two roads is 150 miles—fifty miles in Tennessee and one hundred in Kentucky. They run through the richest agricultural region in the West. Seventy-five miles from Nashville they
strike an inexhaustible bed of rich bituminous coal. 266
There are three strata of this coal, one of them a little over six feet in thickness, and the road runs just below the lowest strata. At Evansville these roads are united to the whole system of railroads in the great Northwest, and will make almost an air line communication with Chicago, and it is but a few miles further to New York by this route than by the Louisville and Nashville Road. The aid of $300,000 given to the Edgefield and Kentucky Road will se-
cure the immediate completion of the Kentucky end 267
of the road to the coal mines. Thus bringing these rich mines to Nashville and the whole of Middle and West Tennessee. Can there be a doubt that the future coal trade alone over the Edgefield and Kentucky Road will enable it to pay the interest on its debt to the State ?

The completion of the road referred to will also greatly benefit the Memphis and Ohio, and the Memphis, Clarksville and Louisville Road. These two
roads together form a line of road running from Mem- 268
phis through Clarksville in the direction of Bowling Green, Kentucky, and intersecting the Nashville and Henderson Road at the State line. One of them passes through the rich iron region lying between the Cumberland and Tennessee Rivers. The supply of coal for Memphis, Clarksville, the iron works and all intermediate points, must go over these roads,

269 thereby greatly advancing their future paying value. These roads have not heretofore, since the war, paid their interest. But so great is the confidence of the Louisville and Nashville Railroad Company in the future of these roads, that that Company, one of the wealthiest and most ably managed railroad corporations in the United States, has leased the Memphis and Ohio Road for ten years, and is now paying its interest on its debt, and has proposed to buy the Memphis, Clarksville and Louisville Road, offer-
270 ing to pay its floating debt, the back interest due the State, amounting now to $220,272, the whole of its debt to the State, and also to pay the stockholders a portion of their stock. Can any stronger evidence be given of the future paying value of these roads? The payment of their interest hereafter is certainly beyond a doubt.

One of the roads aided by the last act of the Legislature is the Nashville and Northwestern. This runs from Nashville to the Mississippi river, and has
271 its terminus on that river, in the edge of Kentucky. On the opposite side of the Mississippi, it meets the Iron Mountain Railroad, which is being built from St. Louis down the western bank of that river. An appropriation has also been made to enable the Northwestern road to build a short branch, which will connect it with the roads leading to New Orleans and Memphis. The Nashville and Northwestern road has but very recently been completed to the Mississippi, and is unprovided with rolling
272 stock, and of course could not be expected to pay its interest. The recent appropriations of the Legislature will fully equip it and build the branch referred to, and Nashville will then have by this road a very direct communication with St. Louis, the shortest and most direct communication with New Orleans, and almost an air-line route to Memphis. Ought not a road running part

of the way through a rich iron region, running 273
over the fertile soil of West Tennessee, and having such connections, be relied on to pay at least its interest on its debt to the State?

The Nashville and Decatur road is one of the roads aided. It crosses some very winding streams, and has an unusual number of bridges and a large amount of trestle work, all of which needs re-building. It is — miles long, and runs from Nashville to Decatur, Alabama. Means have been provided for
its extension to Montgomery in Alabama. This, 274
when completed, will give Nashville almost an air-line communication over this road to Mobile and Pensacola on the Gulf of Mexico. This road has always paid its interest out of its profits, and will be still more certain to do so in the future.

The Nashville and Chattanooga road has always paid its interest and needs no aid. This road has two branches leading off from it—one, called the McMinnville and Manchester, starting about seventy-five miles from Nashville and running north- 275
wardly to McMinnville, thirty-four miles in length; the other, called the Winchester and Alabama road, starting about eighty-five miles from Nashville, running southwardly through Winchester to Fayetteville, thirty-eight miles in length. The rolling stock of these roads was run off, their depots and bridges destroyed, and all the iron rails on both roads removed elsewhere by the United States military authorities. The McMinnville and Manchester
road has just been repaired, and the appropriation 276
to the Winchester and Alabama road has been made to enable it to complete its repairs. Both roads were run by the Chattanooga road before the war. The Southwestern road is to be a continuation of the McMinnville and Manchester road, north. The building of this road will be rendered unnecessary by the building of the Nashville and Pacific Railroad.

The Memphis and Little Rock Railroad, although out of the State, is really a Tennessee road, being built principally by Tennessee capital. This road was almost entirely destroyed by the war, and has been wholly unable to pay its interest. But it is being re-built, and contracts have been entered into for its entire completion. Can any intelligent man doubt that a road, running from the capital of the State of Arkansas to the principal commercial city of Tennessee, will pay its interest on its debt to the State when it is re-built?

The Memphis and Charleston Road, although badly crippled by the war, has promptly paid its interest, and so have the Mobile and Ohio, the Mississippi Central and the Mississippi and Tennessee roads.

The East Tennessee and Georgia and the East Tennessee and Virginia roads have always paid their interest promptly, and need no aid.

The Knoxville and Kentucky road has paid its interest. It runs from Knoxville through the rich coal fields of East Tennessee, and it is intended to meet at the Kentucky State line the Lebanon branch of the Louisville and Nashville Railroad. It is already completed thirty-two miles, has fifteen additional miles graded, and is supplied with rolling stock for its local traffic. The appropriation of $800,000 will certainly complete it to the State line. It has already penetrated the coal fields, and is supplying Knoxville with coal, and over this road will be transported the coal to supply Macon and Augusta, and other intermediate points in Georgia. It not only opens up the rich coal fields and iron mines of East Tennessee, but on lts completion will give the fertile valleys of that section of the State access to the markets of the country, both North and South. Its coal trafic alone should pay the interest on its debt.

The Knoxville and Charleston road, "Philo" as- 281
serts, owe $615,000 and runs but one mile. This is
wholly untrue. This road is nearly completed six-
teen miles, and when finished that distance, and
equipped, will owe the State only $325,000 in all.
This road is to meet a road being built from Char-
leston, in a direct line to Knoxville.

The Cinncinnati and Cumberland Gap Railroad
is now running twenty-five miles, with its grading
completed twenty miles further, at which point it
meets at the North Carolina line a road now build- 282
ing from Asheville. These two latter roads, when
completed, will give Knoxville and East Tennessee
direct connection with the seaboard in the Southern
Atlantic States, and thus render her system of rail-
roads complete, and open up to the world her rich
mineral resources, and bring the products of her
rich valleys to the nearest and best markets, both
North and South.

The Nashville and Pacific Railroad is another
road that is to receive the aid of the State. But it 283
can receive no aid until its stockholders grade
thirty miles of the road and have it ready for the
iron. It then receives State aid to iron it, and upon
every additional twenty miles being thus graded it
is to receive the State aid to iron the twenty miles.
The road is destined to run from Nashville to Knox-
ville, and will at some day run directly to Bristol
on the Virginia and Tennessee State line, there
meeting the railroads of Virginia that lead directly
to Norfolk. Its completion, and this is rendered 284
certain, and the completion of the short branch of
the Nashville and Northwestern Railroad before re-
ferred to, will furnish almost an air line of railroad
from Norfolk in Virginia through Nashville and
Memphis to Little Rock. No one can doubt that
this in a few years will be extended to the Pacific,
either to the Port of Guayamas, on the Gulf of

285 California, or to some point in the State of California. This route will run through the richest agricultural part of the United States, will be free from ice and snow, and the shortest route from the Atlantic to the Pacific. New York will yet see the day when her shortest and best highway to the Pacific Ocean will be through the State of Tennessee, and over her projected Nashville and Pacific road.

We have given the above detailed description of
286 the railroads in Tennessee, with her connections, so that every one may be enabled to judge of the importance of each road, and the perfection of her entire system. It must be obvious that there are very few of her roads, and those very short ones, that are not necessary to the development of her resources. When finished, Knoxville will be the centre of the system in the East, and her roads will connect her with all important points in the Union. Memphis has her system of roads leading to all parts
287 of the Mississippi Valley.

Nashville, the capital of the State, is the centre of the whole system, and her railroads, when completed, will give her close connection with all the cities of the Northwest, and make her the point through which the great highway from the Atlantic to the Pacific must pass. Has not Tennessee shown her wisdom in pledging herself to the support of such a system of roads?

At the close of the war almost all of the roads of
288 Tennessee were nearly in ruins. The State immediately came to their aid, and set them upon their feet again; and finding that additional aid was necessary to fully repair her roads and fully complete her system, she has by the recent act of her Legislature promised additional aid, that may reach the sum of about $4,000,000. But it must be years before this entire sum can be called for, a large por-

tion of this aid being dependent upon the prior 289
grading of the roads by the stockholders. The State has not acted hastily nor rashly in this legislation, but after full investigation of the claims of each road, and careful consideration of the importance of her entire system. The most enlightened of her tax payers believe her action to have been one of wise and judicious liberality, and so we believe those will think who are interested in her securities.

Prior to the war every road in Tennessee, except- 290
ing the Edgefield and Kentucky, and perhaps the Winchester and Alabama roads, paid the interest on he bonds loaned them. The receipts of all the main lines of railroads, and it is believed almost all the roads in Tennessee, are greater now than before the war.

The important question for the bondholder now is: What security have I for the payment of the principal and interest of my bond? The State
debt proper is only about $4,000,000. The railroads 291
and all their rolling stock are mortgaged to the State to secure the payment of bonds loaned. This mortgage, as bondholders must know, inures to their benefit. For the payment of $29,000,000 of bonds, which will be the entire amount of bonds issued to the roads, including those that may be issued under the recent act of the Legislature, the bondholders have as security roads which, when completed, will be nearly 2,000 miles in length, and which will have
cost and which will be worth fully $70,000,000. In 292
addition to that they have the whole resources of the State solemnly pledged to them. And what are the taxable resources of the State? On the 19th of December last there were due the State for taxes $1,108,900. As all the real and personal estate of the taxpayer is responsible for his taxes, a large proportion of the above amount must certainly be

293 paid. The present tax law, under which the taxes of 1868 will be levied, increases the tax fully fifty per cent. The receipts from all sources the past year, exclusive of interest paid by railroads, were $1,517,472. Add fifty per cent. to this will make $2,276,208. To this should also be added what may be collected from back taxes. The expenditures of the State last year, exclusive of interest, were $939,404. Of this amount at least $344,970 were extraordinary expenses, and will not be incurred this year.
294 This would make the State expenditures this year $654,433, which, deducted from her tax receipts, $2,276,208, would leave $1,621,775, a surplus amply sufficient to make up all possible short-comings of railroads in paying their interest, and leaving also a very large amount to be appropriated to the aid of her common schools, a system which she is just inaugurating, combining the best features of the systems of the Northern States.

The pecuniary condition of the State of Tennessee
295 and its resources are but little understood. Outside of East Tennessee, and aside from the destruction of her railroads, and the loss of her slave property, Tennessee was but little injured by the war. The Federal army got possession of Middle and West Tennessee early in 1862. Her citizens were enabled to get rid of all their Confederate currency without a sacrifice. It is true a large amount of her stock of animals were taken by the armies, but the armies, as a general rule, paid for what was taken. The
296 army expenditures were larger in Tennessee than in any other State, and these expenditures enriched its citizens. The city of Nashville certainly came out of the war largely increased in population and greatly advanced in wealth. Everything was bought and sold for cash, consequently no debt was contracted at home or abroad, and as evidence of this we have no stop laws and no serious attempt to pass

any; and we appeal to the merchants of New York 297
as an evidence of the fact, that no merchants of any State pay more promptly than the merchants of Tennessee. Her black labor being formerly owned in small numbers, and many of them working side by side with their masters, labor is much less demoralized than in the more Southern States, as is demonstrated by the abundance of the present crop. Her crop of wheat the last year was fair, and farmers obtained for it from $2 to 2.50 per bushel, a price
wholly unprecedented in Tennessee. Her corn crop 298
was a full one, and its surplus is now finding its way over the railways of New York to this city. Her crop of cotton has not been as large for years. Nashville has already received a larger number of bales than the average of entire years prior to this, and she will certainly receive an amount this year more than double her annual receipts before the war. Clarksville, about sixty miles below her on the Cumberland River, was one of the largest interior tobacco
markets in the Union before the war; the past year 299
her receipts of tobacco in dollars and cents were greater than they have ever been at any former period.

In addition to her present productive wealth, she has vast resources yet untouched. She has valuable pine timber, larger forests of cedar than any State in the Union. She has scattered all over her every kind of timber used in building or the mechanic arts, except rosewood and mahogany. She
has beneath her soil every variety of minerals used 300
in the mechanic arts, and all of it rich in quality and abundant in quantity, and she has a climate and soil capable of producing successfully every article of raw material used in manufacturing.

And yet with all these vast resources, with her sound pecuniary condition, her admirable system of railroads almost completed, and her mercantile and

301 financial honor untarnished, it is evident from the prices of her bonds, that fears exist that she will falter in paying the interest upon her debt. Why should Tennessee be distrusted? Before the close of the past year she placed her money with her fiscal agent in this city, amply sufficient to pay every dollar of her present January interest.

Did she not, at the close of the war, meet the wishes of her creditors, and fund all her accumulated interest?

302 With all her business interests disorganized by the war, with her labor in its transition state from slavery to freedom, with her railroads just rising from their ruins, with an imperfect tax system, she has heretofore faithfully met her obligations.

Why should it be feared that she will falter now, when her labor is annually producing a return greater in value than at any former period in her history? When emigration is daily bringing additional labor and capital to her borders. When her
303 railroads are almost rebuilt, aud daily increasing their capacity to pay their dues to the State, and when her future receipts from taxation will annually exceed her ordinary expenses largely over $1,000,000. Surely a knowledge of the condition and resources of Tennessee, the known spirit and character of her people, the well-known unalterable determination of legislators and all her State officials to maintain her public faith inviolate, ought to satisfy every one that the interest on her public debt will ever
304 be promptly paid, and that all her obligations will be honorably and faithfully fulfilled.

S. W.

RAILROADS NOW PAYING AND THAT ALWAYS HAVE PAID THEIR INTEREST. 305

	Bonds loaned, including interest funded	Bonds endorsed by the State.	
East Tennessee and Virginia	$2,688,100	$197,000	
Memphis and Charleston	1,643,980		
Nashville and Decatur	2,115,176		
Nashville and Chattanooga	395,000	1,546,000	
East Tennessee and Georgia	1,690,120	126,000	
Knoxville and Kentucky	1,353,200		306
Memphis and Ohio	2,396,110		
Mobile and Ohio	1,684,800		
Mississippi and Tennessee	317,800		
Mississippi Central	1,078,980		
Knoxville and Charleston	300,000		
	$15,663,266		

ROADS NOT NOW PAYING, BUT WHICH WILL CERTAINLY PAY, AND PROBABLY BY THE END OF THE YEAR.

Edgfield and Kentucky	$1,070,167	307
Memphis, Clarksville and Louisville	1,894,600	
Nashville and Northwestern	3,064,850	
	$6,029,617	

ROADS NOT NOW PAYING

Cincin., Cumb. Gap and Charleston	$985,680		
McMinnville and Manchester	851,360		
Winchester and Alabama	1,098,259		
Rogersville and Jefferson	393,160		
Memphis and Little Rock	105,000	350,000	
	$3,433,459		308

Deposition of C. Amory Stevens.

UNITED STATES CIRCUIT COURT,

WESTERN DISTRICT OF TENNESSEE. 1

CALVIN AMORY STEVENS *et al.* on behalf of the holders of Internal Improvement bonds of Tennessee, issued to the MEMPHIS & CHARLESTON RAILROAD COMPANY,

versus

The MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.* 2

Hearing pursuant to notice to take the take the deposition of Calvin A. Stevens, before William H. DeLancey, Notary Public.

(Deposition taken subject to all legal objections of either party.)

It is consented and agreed that this deposition shall be taken before William H. DeLancey, as a Special Examiner of the Circuit Court of the United States for the Western District of Tennessee, and that an order to that effect be entered at a future day *nunc pro tunc*, and that the said William H. DeLancey is also acting under and by virtue of Section 863 of the Revised Statutes of the United States. 3

52 BROADWAY, New York, Sept. 12, 1879.

Present { MR. ANDREWS, for Complainants. 4
{ MR. HUMES, for Defendants.

5 **Calvin A. Stevens**, a witness produced on the part of the compainants, being by me first duly cautioned and sworn in the above-entitled suit to testify the truth, the whole truth and nothing but the truth, deposes and says:

Direct examination by Mr. Andrews:

1 Q. Are you the complainant in this case?

A. I am.

2 Q. Are you an owner and holder of bonds of
6 the State of Tennessee?

A. I am.

3 Q. Will you produce before this officer for his inspection and that of counsel here present, Tennessee bonds of which you are owner and holder?

A. There are 28 of the bonds issued to and sold by the Memphis & Charleston R. R. Co.

> Witness produces 28 bonds of the State of Tennessee.

7
> Complainants' counsel requests the Commissioner to take copies of said 28 bonds, and certify in his report the production of the same; certificate annexed, and marked "Compl'ts Exhibit No. 1, W. H. D. L. Sp'l Ex'r."

4 Q. Are the holders of this class of bonds quite numerous, and do they reside in many different places?

A. Such is the case.

8
> (Complainants' counsel closes his direct examination.)

Cross-examination by Mr. Humes:

5 x Q. How did you become the owner of the 28 bonds you have here produced?

A. I could not answer whether they were given to me by my father or whether I bought them myself.

6 x Q. When did your father give you any of these bonds? 9

A. Before his death.

7 x Q. When did he die?

A. I think it was March, 1877.

8 x Q. How long before his death did he give them to you?

A. It might have been a month or two weeks—not very long before his death.

9 x Q. Did he give them to you orally or by an instrument in writing? 10

A. He gave them to me by an instrument in writing.

10 x Q. What was that instrument in writing?

A. A proper instrument in writing, giving me these bonds as well as other securities.

11 x Q. Was it a Will, deed of gift, or simple assignment?

A. It was not a Will—it was a proper instrument in writing.

12 x Q. What do you mean by a proper instrument in writing? 11

A. I mean such a legally drawn instrument as fully transfers property from one person to another.

13 x Q. Was it signed by your father?

A. It was, otherwise it would not have been a proper instrument in writing.

14 x Q. Where is the instrument now?

A. It is securely under lock and key in this city.

15 x Q. Will you produce it during this examination? 12

A. I will with pleasure if the Court requires it.

16 x Q. Do I understand you to decline to produce it except upon an order of the Court?

A. An order of the Court or proper authority. I wish to further state that I am here to prove the ownership of my bonds, and not to answer impertinent questions unnecessarily inquiring into my pri-

13 vate affairs, enabling the defendants to further obstruct and postpone the trial of these causes.

17 x Q. Do you mean by other proper authority the direction of the examiner?

A. I will again state that I am here to prove the ownership of my bonds, and I again decline to answer impertinent questions prompted by a motive to retard and evade justice.

18 x Q. The question not being answered I repeat x Q. 17.

14 A. I decline to answer for the reasons already given.

Adjourned to 13th inst., at 10 A. M. by consent.

SEPT. 13, 1879. 10 A. M.

Adjourned to 4 P. M. this day by consent.
" " Sep. 29, 1879, 10 A. M. by consent.
" " Oct. 8, 1879, 10 A. M. "
" " Oct. 17, 1879, 10 A. M. "

15

NEW YORK, Oct 17, 1879.

Present—as before.

19 x Q. Will you produce the paper asked for on the former examination?

A. We will settle that at the next meeting.

Adjourned to October 22, 1879, at 12 M.

16 OCTOBER 22, 1879—12 M.

Present—Counsel as before.

20 x Q. Will you please produce the instrument in writing, which you have testified was signed and executed by your father a few weeks before his death, giving you his bonds of the State of Tennessee?

A. I object to producing the instrument referred 17
to, because it would make public the private affairs
of an important estate confidentially intrusted to
my keeping, but if the Court specially desires it I
will waive my objection. I will go even further, if
counsel for defendant desires to privately examine
it, I will waive my objection, provided he will reciprocate
and fulfil reasonable conditions.

First. I ask that R. T. Wilson, allow my counsel
to inspect his copy, letter and dispatch
book, as to correspondence between himself, C. M. 18
McGhee, T. H. Callaway and Joseph A. Mabry,
just before and during the Tennessee Legislature of
1869, when he was engaged in procuring the passage
of the act of 1869, as stated in his letter to John
T. Terry.

Second. That he allow my counsel to inspect his
correspondence with his associates in 1870, when they
were procuring the passage of the act for the sale
of insolvent railroads, which he suggested and aided
as stated in his letter to John T. Terry. 19

Third. That he allows my counsel to inspect his correspondence with his associates during the year 1868, when to depress the market value of Tennessee bonds, they procured a speculative injunction to prevent State payment of interest, for which conspiracy against the credit of the State Governor Brownlow, had R. T. Wilson C. M. McGhee and Joseph A. Mabry arrested.

Fourth, That he allow my counsel to inspect his
correspondence with his brother, B. F. Wilson, 20
and C. M. McGhee, when he (R. T. Wilson) and
Gov. Porter were getting up the extra session of
the Tennessee Legislature to compromise the debt
at 50 and 6 per cent.

Fifth, That R. T. Wilson, President of the Memphis & Charleston Railroad Company, give the names of his brokers in New York, through

21 whom he carried on his Tennessee bond speculation.

(Objected to by defendants' counsel as impertinent, irrelevant, incompetent, and not in answer to the question.)

21 x Q. Was the forgoing answer given on advice of counsel?

A. It was given on my own suggestion; I wrote it out myself.

22 22 x Q. Was it also given on advice of counsel?

A. I submitted it, counsel thought it proper, since R. T. Wilson refused again and again to produce evidence that counsel properly called for.

23 x Q. Did you sign the paper shown you dated February 15th, 1877, addressed to his Excellency, James D. Porter, and signed, among others, as follows:

"Calvin Stevens, by C. Amory Stevens, atty.,"
23 and a copy of which paper is attached as Respondent's Exhibt No. 1 to Peter Geddes' deposition in these causes?

A. I did sign it, at the solicitation I think of Mr. Peter Geddes.

24 x Q. Did you write and forward the letter now shown you, dated New York, December 15th, 1877, addressed to Governor James D. Porter, Nashville. Tennessee?

A. Soon after R. T. Wilson wrote and forwarded
24 a certain dispatch to Governor Porter, to which he secured from me the signature of my father's estate I wrote and forwarded the letter referred to, copy of which I offer from R. T. Wilson's copy book.

(The copy referred to is offered in evidence and marked Resp'ts Exhibit No. 1, W. H. D. L., Spl. Exr.)

25 x Q. What was the date of the telegram signed by you, and, as you say, sent by Wilson? 25

A. I should say a few days before, and I offer a copy of it taken from R. T. Wilson's dispatch book. It is the same telegram that to oblige R. T. Wilson I purposely signed the estate of Calvin Stevens, C. Amory Stevens, trustee. I was on the point of signing my own individual name, when I was urged by R. T. Wilson & Co. to sign the name of the estate, since it would carry more weight, and since it represented the same lot of bonds that my father 26 owned February 15th, 1877; these were the reasons given me by R. T. Wilson & Co.

(Copy referred to offered in evidence, and marked Resp'ts Exhibit No. 2, W. H. D. L., Spl. Exr.)

26 x Q. How old were you in December, 1877?

A. I was born August 2, 1845.

27 x Q. Were you the representative of Calvin 27 Stevens' estate when you signed the above telegram?

A. I was.

28 x Q. Didn't you also send a telegram on the 14th of December, 1877, to Governor Porter?

A. I think likely that I did. R. T. Wilson urged me to telegraph, and also to see my friends and get every one I could to telegraph.

29 x Q. Do you state that the telegram of the 14th of December was suggested or dictated by R. T. 28 Wilson, or written by him, or by anyone in his office?

A. I refer to the first telegram which he wrote and sent, and urged me to get others to telegraph and to use what influence I had to help them get through the 50 and 6 per cent. bill.

30 x Q. Who wrote and sentthe telegram of the

14th December, signed by you, to Governor Porter?

A. Please produce it that I may refresh my memory and tell all I know about it.

(Counsel says he has not got it.)

31 x Q. Did you write the letter of December 15th, 1877, as containing your views and sentiments, and do they contain your views and sentiments at that time?

A. I did write that letter, subject to R. T. Wilson's approval and sanction. R. T. Wilson was very careful to have the letter read to him before it was sent, and expressed himself as much pleased with it.

32 x Q. When did your father purchase the bonds he gave to you?

A. A number of years before his death.

33 x Q. Did he not purchase a large number of them during the years 1874, 1875, 1876 and 1877, up to March?

A. I think he may have purchased some of them as recently as 1874, but my impression is they were purchased some time before.

34 x Q. Did he not make large purchases of bonds in 1875 and 1876 and in 1877?

A. I do not think he purchased any State of Tennessee bonds in the years 1875, 1876 or 1877. I think they were purchased long before that.

35 x Q. Were you on such terms with your father in relation to his business for several years before his death, as to be informed of his transactions in bonds, and did he communicate with you on this subject?

A. I was quite familiar with my father's business affairs; we usually consulted together on all important business transactions when I was at home and with him.

36 x Q. Did your father fund the past due coupons, and bonds under the act of 1873, and if yea, did he do it in person, or by an agent? 33

A. I was not at home at the time, but I understand that he took his Tennessee bonds in person to Tennessee, had all of his bonds registered, cut off the past due coupons of the same and funded them into the new series of funding bonds.

37 x Q. Did you purchase and own Tennessee bonds yourself, before your father's death, if so in what years did you purchase them? 34

A. I purchased and owned Tennessee bonds a number of years before my father's death. I bought them at several different times, and I do not recollect the dates.

38 x Q. Did you fund the past due coupons under the act of 1873?

A. I never registered any Tennessee bonds or funded any Tennessee coupons.

39 x Q. Did you buy or hold any Tennessee bonds during the years 1873 or 1874? 35

A. I could not say for a certainty, but I am of the impression that I purchased some as recently as that.

40 x Q. Have you purchased any since 1874; if so during what years?

A. I have purchased a good many since. I think I must have purchased as late as 1876, 1877 and 1878.

41 x Q. Are the bonds proved and sued on in these cases bonds given to you by your father, or such as you have purchased since his death? 36

A. The bonds sued on in these cases include no bonds given me by my father; but bonds I purchased and paid for myself since 1874.

42 x Q. Were you aware that the railroad companies from 1870 to 1877, were purchasing State

37 bonds to retire their debts due to the State, under the provisions of the acts of 1869 and of 1870?

A. I was not. I first became aware of these so-called substitutions after the telegraph and letter to Governor Porter, of December 14th, 1877, had been sent.

43 x Q. Were you in the State of Tennessee during the years 1868, 1869 or 1870?

A. I could not say whether I travelled through the State in those years or not; that is without re-
38 ferring to my diary.

44 x Q. Were you at Nashville during the sessions of the Legislature in 1868, 1869 and 1870?

A. I have no recollection of ever visiting Nashville during my life.

45 x Q. Did you hold in 1873 any old Tennessee bonds with unpaid coupons attached to them?

A. I could not answer that question without referring to my books.

46 x Q. Did you ever present a coupon overdue
39 to any railroad company, and demand payment of the same?

A. I have not as yet; I was on the point of doing so, and my counsel assured me that it was not necessary.

47 x Q. When was that?

A. That was since I filed these bills.

48 x Q. Did you ever do it before you filed these bills?

A. No, sir; I did not.

40 49 x Q. Have you a list of all the Tennessee bonds you now own; if yea, will you please file it?

A. I have a list; I decline to unnecessarily make public my private affairs; I have already submitted the necessary bonds to defendant's counsel.

50 x Q. Have you shown me any bonds except those that you say are sued on?

A. No, sir; I have not.

51 x Q. What agreements besides that contained in the Exhibits to Terry's and Geddes' depositions, have you entered into with other persons for the prosecution of this suit ?

A. Do you refer to the amount of fees I have paid to different counsel ?

52 x Q. Question repeated.

A. If counsel for defendant will explain what he means, I will be pleased to answer his question.

53 x Q. I mean have you entered into any agreement or agreements with any person or persons, besides those Exhibited with Terry's and Geddes' depositions, for the prosecution of these suits ; whether these agreements have been made with your counsel, or with others ?

A. I have not entered into any such agreement, though I regularly pay my counsel, and expect to as long as the fight continues.

54 x Q. Have you entered into an agreement with Peter Geddes and others other than that evidenced by Exhibits to Geddes' deposition, for the prosecution of these suits ?

A. I have already answered to the effect that I have not, and that I regularly pay my counsel.

55 x Q. Have you entered into any agreement with any person or persons to share in the profits arising from these suits ?

A. Counsel for defendants will please explain what he means by profits ; I have already expended many thousand dollars myself without receiving any profit ; I am working to collect what honestly belongs to me, and to bring an infamous railroad ring to justice.

> (Counsel for defendants objects to the last clause of this answer as impertinent, irrelevant, and not in answer to the interrogatory.)

56 x Q. Have you entered into any agreement

45 with any person or persons, whereby you are to get any part or share in the proceeds of the recovery of these suits, beyond the amount of your own bonds and coupons, held by you, before the bringing of these suits ?

A. I have not.

57 x Q. Have you entered into any such agreement whereby others than yourself are to get a part of the proceeds of these suits, other than the bonds and coupons they held at the time of the bringing
46 of these suits ?

A. I have not.

Cross examination closed.

Re-direct examination by Mr. ANDREWS :

58 Q. At the time you wrote the communications to the public officers of the State of Tennessee, referred to in the cross-examination, were you not very largely interested in non-lien bonds of the State of Tennessee ?

A. I was.

47 CALVIN AMORY STEVENS.

Adjourned to Oct. 23d, 1879, at 11 o'clock A. M.

Oct. 23, 1879.

Adjourned till further notice.

Dec. 29.

Noticed for 31 Dec., 12 M.

Dec. 31.

Adjourned to January 2, 1880, 1 P. M.

Jan. 2, 1880.

CALVIN AMORY STEVENS.

Subscribed and sworn to before me this
48 2d day of January, A. D., 1880.

WILLIAM H. DELANCEY,
Special Examiner.

I, WILLIAM H. DELANCEY, Special Examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the above-entitled suit, in the City of New York, do

hereby certify, that on the several days named in 49
the deposition hereto annexed, I was attended at
my office, No. 52 Broadway, in the City of New
York, by the counsel and witness aforesaid. That
the said witness was duly sworn in the above-entitled suit, and examined, and the deposition was reduced to writing, and read to the witness, and by
him subscribed in my presence; and that the exhibits hereto annexed, marked "Complainant's Exhibit No. 1, W. H. D. L., Spl. Exr.," and "Respondent's Exhibits Nos. 1 and 2, W. H. D. L., 50
Spl. Ex.," were introduced in evidence in said
cause during the taking of said deposition.

Dated January 2, 1880.

WILLIAM H. DeLANCEY,
Special Examiner.

IN THE CASE OF

CALVIN AMORY STEVENS *et al.*, on 51
behalf of the holders of Internal
Improvement Bonds of Tennessee,
issued to the MEMPHIS & CHARLESTON RAILROAD COMPANY,

versus

THE MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.* 52

IN THE UNITED STATES CIRCUIT COURT
For the Western District of Tennessee.

I hereby certify that there were produced before
me during the taking of the deposition of Calvin
Amory Stevens in this cause twenty-eight Tennessee bonds, each bond being for the principal sum of
one thousand dollars, and bearing the impression of

53 the great seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows:

COMPLAINANT'S EXHIBIT No. 1.

W.H.D.L., Spl. Exr.

M. United States of America. M.

No. 357. B.

54

State of Tennessee.

Know all men by these presents, that the State of Tennessee acknowledges to owe to
or order, one thousand dollars, lawful money of the United States, which sum the said State promises to pay, in the City of New York, on the 1st day of January, 1892, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation
55 of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an Act of the General Assembly of said State, passed at its Session of 1851-2.

56 In witness whereof, I, W. B. Campbell, Governor of said State, have hereunto signed my name, and caused the same to be countersigned by the Secretary of said State, and the great seal of said State to be hereto affixed, at Nashville, this 1st day of January, 1852.

W. B. CAMPBELL,
Governor.

W. B. A. RANNEY,
Secretary of State.

$1,000. $1,000. 57

The other twenty-seven of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 386, 409, 501, 562, 597, 608, 612, 663, 698, 708, 1,675, 1,700, 1,705, 2,021, 2,024, 2,053, 2,054, 2,066, 2,080, 2,082, 2,085, 3,098, 3,416, 3,509, 3,525, 4,552, 4,563.

All of said bonds are dated on the 1st day of January, 1852, except numbers 1,675, 1,700, 1,705, 58
2,021, 2,024, 2,053, 2,054, 2,066, 2,080, 2,082, 2,085, 3,098, which are dated January 1, 1855, and numbers 3,416, 3,509, 3,525, 4,552, 4,563, which are dated January 1, 1856.

Numbers 357, 386, 409, 501, 562, 597, 608, 612, 663, 698, 708 are signed: W. B. Campbell, Governor; W. B. A. Ranney, Secretary of State.

Numbers 1,675, 1,700, 1,705, 2,021, 2,024, 2,053, 59
2,054, 2,066, 2,080, 2,082, 2,085, 3,098, are signed: Andrew Johnson, Governor; W. B. A. Ranney, Secretary of State.

Numbers 3,416, 3,509, 3,525, 4,552, 4,563, are signed: Andrew Johnson, Governor; F. N. W. Burton, Secretary of State.

All of Said bonds having thirty-three coupons attached to each bond, except number 2,085, which has twenty-eight coupons attached. 60

The first coupon falling due is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay the bearer Thirty Dollars, in the City of New York, 61 on the first day of January, 1876, being the semi-annual interest then falling due on bond No. 357.

ARTH. R. CROZIER, Comptroller.

All the coupons attached to bonds numbered as aforesaid, are signed Arth. R. Crozier, Comptroller, except numbers 3,416, 3,509, 3,525, 4,552, 4,563, which are signed by J. C. Luttrell, Comptroller.

62 There are eight overdue coupons upon each of the aforenumbered bonds, except No. 2,085, the first coupon thereof having fallen due on the 1st day of January, 1876. The other seven of said coupons fall due at intervals of six months from the date of the coupon above mentioned. On bond number 2,085 there are three overdue coupons, the first having fallen due on the first day of July, 1878, and the other two fell due at intervals of six months from that date.

63 All the aforesaid bonds, with the coupons attached thereto, were left by the witness, Calvin Amory Stevens, for inspection by me, and the solicitor for the respondents, then and there present, and were inspected by me and by him.

The endorsements on said bonds are as follows:

On bond No. 357: "Registered under 9th section of the Funding Act, approved March 17, 1873; Jno. C. Burch, Comptroller; Chas. N. Gibbs, Secretary of State." Audited Aug. 14, 1874.

	On bond No.	386	same	"	April 10, 1874.
64	"	409	"	"	May 20, 1874.
	"	501	"	"	April 23, 1874.
	"	562	"	"	Nov. 19, 1873.
	"	597	"	"	April 10, 1874.
	"	608	"	"	Nov. 20, 1873.
	"	612	"	"	Nov. 28, 1873.
	"	663	"	"	Nov. 2, 1874.
	"	698	"	"	Aug. 14, "

On Bond No.	708	same	Audited	April 10,	1874.	65
“	1,675	“	“	Jan. 12,	“	
“	1,700	“	“	Jan. 15,	“	
“	1,705	“	“	Mar. 18,	“	
“	2,021	“	“	Nov. 2,	“	
“	2,024	“	“	June 6,	“	
“	2,053	“	“	April 10,	“	
“	2,054	“	“	“	“	
“	2,066	“	“	Mar. 6,	“	
“	2,080	“	“	Nov. 2,	“	
“	2,082	“	“	June 24,	“	66
“	2,085	“	“	June 2,	“	
“	3,098	“	“	Mar. 6,	“	
“	3,416	“	“	Jan. 6,	“	
“	3,509	“	“	May 1,	“	
“	3,525	“	“	June 9,	“	
“	4,552	“	“	Nov. 2,	“	
“	4,563	“	“	April 10,	“	

In addition to the foregoing, the following endorsements are upon bonds Nos. 608 and 612: 67

“State of Wisconsin—The within bond has been assigned to to the State Treasurer as banking security.—Bank Comptroller's office, June 2, 1857. Wm. M. Dennis, Comptroller.”

MADISON, July 1, 1861.

Released without recourse in any event to
SAM'L D. HASTINGS,
State Treasurer, Wis.

Witness—Adolph J. Cramer. 68
O. G. Scofield.

STATE OF WISCONSIN }
County of Dane, } ss.:

On the 1st day of July, A. D. 1861, personally appeared before me the above-named Sam'l D. Hastings, Treasurer State of Wis., to me known, 69 and acknowledged the execution of the above release to be his free act and deed.

O. G. Scofield,
Notary Pubilc,
Wis.

And on bond No. 357:

"Assigned and transferred by E. Cramer to the State Treasurer of the State of Wisconsin, in trust for the 'State Bank of Wisconsin.'"

70 Madison, April 14, 1853.

J. S. Baker,
Bank Compt'r.

Madison, Dec. 19, 1860.

"Released with recourse in any event to
Sam'l D. Hastings,
State Treasurer, *Wis.*

And on bond No. 501:

71 Assigned, &c., as above, and endorsed,
Chas. J. Keelin,
State Treasurer.
by Carl Harbich,
Asst. State Treasurer.

WILLIAM H. De LANCEY,
Special Examiner.

72

RESPONDENT'S EXHIBIT No. 1. 73

W. H. D. L., Spl. Exr.

New York, Dec. 15, '77.

Gov. Jas. D. Porter, Nashville, Tenn.

Dear Sir:—I telegraphed you Dec. 11th, and again to-day. I feel it my duty to further say: That while I fully recognize and sympathise with the financial distress of Tenn., yet I cannot entirely disregard my own embarrassment and that of my fellow bondholders. 74

I represent one of the many estates which purchased Tenn. bonds at a time when her credit stood high, and none feared that she would do aught to lower it. We now offer liberally to share half of the loss. Speaking for one (and I believe that I express the sentiment of the majority) I cannot discount my just claim at better than 50 and 6 per cent. (fifty per cent. of old bonds and interest due changeable for new bonds bearing six per cent. interest) nor can I yet believe that the Legislature of 75 Tenn. will force her creditors (who have offered so liberally) to take less.

Allow me to call your attention to a fact of which you may not be aware. John T. McKinnon speaks for (if he has not already overstepped his instructions) a self-appointed syndicate. It is well-known that the syndicate own few, if any, of the bonds. They do not represent the bondholders. In fact the bondholders denounce their interference and mercenary motives. This self-constituted syndicate 76 does not seek only to improve and promote the best interests of the South. Its sympathy would seem to be quite as much with itself. With a subscribed capital of only ten thousand dollars, it aims to increase it by levying a regular broker's commission on the already over-burdened bondholders.

As a sovereign State your unfortunate creditors

77 appeal to you to act as becomes your dignified position—to deal directly with bondholders, to treat as discreditable impertinence, this interference of a self-appointed syndicate, that speaks without the authority of your creditors, and whose misrepresentations and mercenary motives they generally denounce.

Very respectfully,
THE ESTATE OF CALVIN STEVENS,
C. AMORY STEVENS, *Trustee.*

78 Care of
H. T. MORGAN & Co.,
35 William St., New York.

RESPONDENT'S EXHIBIT No. 2.

W. H. D. L., Spl. Exr.

December 11, 1877.

GOVERNOR JAS. D. PORTER, Nashville, Tennessee :

I am a large holder of Tennessee bonds, which have been held for years strictly for investment 79 account. I was a signer of the former petition sent you through the Committee of Arbitration, and while I would prefer to have that proposition accepted, yet if it would require a revenue bill that is deemed by the Legislature to be higher than the State can afford to pay without seriously retarding the prosperity of the people, I prefer to change the original offer, and hereby do change it. I propose to take fifty cents on the dollar.

I think this dispatch represents the sentiment of 80 most of the investment holders. They recognize the embarrassed condition of the State, growing out of the war, and are willing to meet the situation in a spirit of liberality, and now ask the Legislature, through your Excellancy, to reciprocate this feeling, and make a settlement without further delay. Please submit this to the Legislature for its action.

The Estate of Calvin Stevens.
C. AMORY STEVENS, *Trustee.*

1

IN THE UNITED STATES CIRCUIT COURT.

FOR THE MIDDLE DISTRICT OF TENNESSEE.

IN THE CASE OF

CALVIN AMORY STEVENS, *et al.*, on behalf of the holders of Internal Improvement Bonds, of Tennessee, issued to the NASHVILLE AND CHATTANOOGA RAILROAD COMPANY, 2

versus

THE NASHVILLE CHATTANOOGA AND ST. LOUIS RAILWAY.

3

I hereby certify that there were produced before me during the taking of the deposition of Calvin Amory Stevens in this cause four (4) Tennessee Bonds, each bond being for the principal sum of one thousand dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows :

4

5 **Complainants' Exhibit No. 1.**

W. H. D.
Spe. Exr.

M. UNITED STATES OF AMERICA. M.

No. 1581. C.

STATE OF TENNESSEE.

Know all men by these presents, that the State of Tennessee acknowledges to owe to
or order, one thousand dollars, lawful money of the
6 United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 189 , with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an act of the General Assembly of said State, passed at its
7 Session of 1851-2, and acts amendatory thereto.

In Witness whereof I Isham G. Harris, Governor of said State, have hereunto signed my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 1st day of January 1861.

8 ISHAM G. HARRIS,
Governor.
J. E. R. RAY,
Secretary of State.

$1,000. $1,000.

The other three (3) of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 10,698; 10,696; 11,205, and also, in their letter, being all "B.", and no. 11,205 being payable to D. Weaver. 9

All of said bonds are dated on the 1st day of January, 1860, except number 1,581, which are dated on the first day of January, 1861.

All are signed:

ISHAM G. HARRIS,
Governor.
J. E. R. Ray, 10
Secretary of State.

Said bonds having forty-five coupon attached to each.

The last coupon attached to each of said bonds, being the coupon first falling due, is in all respects except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30.

The Treaſurer of the State of Tennessee will pay the bearer thirty dollars, in the city of New York, on the first day of January, 1876, being the semi-annual interest then falling due on bond No. 1,581. 11

J. T. DUNLAP,
Comptroller.

All the coupons attached to bonds numbered 10,698, 10,696, and 11,205 are signed by

J. T. DUNLAP,
Comptroller. 12

There are eight overdue coupons upon each of the following numbered bonds, viz.: Bond No. 1,581, 10,698, 10,696, 11,205, the first coupon thereof having fallen due on the 1st day of January, 1876. The other seven of said coupons fall due at intervals of six months from the date of the coupon above mentioned.

13 All the aforesaid bonds with the coupons attached thereto, were left by witness, Calvin A. Stevens, for inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

The endorsements on said bonds are as follows: on bond No. 1,581, "registered under 9th section of funding act, approved March 17th, 1873.

JOHN C. BIRCH,
Comptroller.

14 CHAS. N. GIBBS,
Secretary of State.

Audited Dec. 19, 1874
On bond no. 10,698. Same " May 18, 1874
" " " 10,696. Same " March 20, 1874
" " " 11,205. Same " March 13, 1874"

I assign the within to bearer without recourse.
D. WEAVER.

15 I hereby certify that D. Weaver signed the above indorsement in my presence the 28th Nov. 1861.

JOSEPH WHELERS,
[L.S] *Notary Public.*

WILLIAM H. DE LANCEY,
Special Examiner.

16

IN THE UNITED STATES CIRCUIT COURT, 1

FOR THE MIDDLE DISTRICT OF TENNESSEE.

IN THE CASE OF
CALVIN AMORY STEVENS, *et al.*, on
behalf of the holders of Internal
Improvement Bonds of Tennessee
issued to The NASHVILLE & NORTH
WESTERN RAILROAD COMPANY, 2

versus

THE NASHVILLE, CHATTANOOGA and
ST. LOUIS RAILWAY, *et al.*

I hereby certify that there were produced before
me during the taking of the deposition of Calvin
Amory Stevens in this cause, ten (10) Tennessee 3
bonds, each bond being for the principal sum of one
dollars, and bearing the impression of the Great
Seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows:

4

5 **Complainants' Exhibit No. 1.**

W. H. D. L., *Spl. Exr.*

M. UNITED STATES OF AMERICA. M.

No. 10,390. B.

STATE OF TENNESSEE.

Know all men by these presents, that the State of Tennessee acknowledges to owe to or order, One Thousand Dollars, lawful money of
6 the United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1898, with interest at the rate of six per cent. per annum, payable semiannually, according to the tenor, and upon the presentation of the coupons hereunto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an Act of the General As-
7 sembly of said State, passed at its Session of 1851-2 and Acts amendatory thereto.

In witness whereof, I, ISHAM G. HARRIS, Governor of said State, have hereunto signed my name, and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 1st day of January, 1859.

8 ISHAM G. HARRIS,
Governor.

J. E. R. RAY,
Secretary of State.

$1,000. $1,000

The other nine of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 11,434, 123, 152, 252, 723, 735, 155, 156, 81; all of the

foregoing except 11,434 are lettered C. No. 123 is 9
made payable to D. Weaver, cashr.

All of said bonds are dated on the 1st day of January, 1860, except number 10,390, which is dated on the 1st day of January, 1859.

All of said bonds are signed.

ISHAM G. HARRIS,
Governor.

J. E. R. RAY,
Secretary of State.

All of said bonds having forty-five coupons at- 10
tached to each, except No. 152, which has forty coupons attached, and No. 252, which has forty-one coupons attached.

The first coupon attached to each of sald bonds being the coupon first falling due is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay 11
the bearer Thirty Dollars, in the City of New York, on the first day of January, 1876, being the semi-annual interest then falling due on bond No. 10,390.

J. T. DUNLAP,
Comptroller.

All coupons attached to bonds numbered as aforesaid are signed

J. T. DUNLAP,
Comptroller. 12

There are eight overdue coupons upon each of the afore numbered bonds. viz.: Bond No. 10,390, 735, 723, 11,434, 123, 155, 156, 81. The first coupon thereof having fallen due on the 1st day of January, 1876. The other seven of said coupons fall due at intervals of six months from the date of the coupon above-mentioned.

13 There are three overdue coupons upon Bond No. 152. The first coupon thereof having fallen due the first day of July, 1878, and the other two fall due at intervals of six months from the date of the coupon above-mentioned.

There are four overdue coupons upon Bond No. 252. The first coupon thereof having fallen due the first day of January, 1878, and the other three fall due at intervals of six months from the date of the coupon above-mentioned.

14 All the aforesaid bonds with the coupons attached thereto, were left by the witness, Calvin Amory Stevens for inspection by me, and the solicitor for the respondents then and there present, and were inspected by me and by him.

The endorsements on said bonds are as follows: on Bond No. 10,390. Registered under 9th section of Funding Act, approved March 17, 1873.

JNO. C. BURCH,
Comptroller.
15 CHAS. N. GIBBS,
Secretary of State.
Audited, January 19, 1874.

	On Bond No.	152	same	"	Jan. 16, 1874.
	"	252	"	"	Oct. 11, 1873.
	"	735	"	"	Mar. 20, 1874.
	"	723	"	"	Aug. 25, 1873.
	"	11,434	"	"	May 1, 1874.
	"	155	"	"	Jan. 13, 1874.
16	"	156	"	"	" " "
	"	81	"	"	Aug. 25, 1873.
	"	123	"	"	May 13, 1874.

D. WEAVER,
Cashier.
WILLIAM H. DE LANCEY,
Special Examiner.

Deposition of Eugene Kelly.

UNITED STATES CIRCUIT COURT,

WESTERN DISTRICT OF TENNESSEE. 1

CALVIN AMORY STEVENS, *et al.*, on behalf of the holders of Intern Improvement Bonds of Tennessee, issued to the MEMPHIS & CHARLESTON RAILROAD COMPANY,

vs.

THE MEMPHIS & CHARLESTON RAILROAD COMPANY, *et al.* 2

Testimony and proofs for final hearing on the part of the complainants, taken before William H. DeLancey, Special Examiner, duly appointed herein, under and pursuant to the 67th Rule in Equity, as amended. 3

52 Broadway, New York,
October 10, A. D. 1879.

Met pursuant to notice.

Present—MR. ANDREWS for complainants, MR. HUMES for Respondents.

EUGENE KELLY, a witness produced on the part of the complainants, being first duly cautioned and sworn in the above-entitled suit to testify the truth, the whole truth and nothing but the truth, deposes and says: 4

5 (Deposition taken subject to all legal objections of both parties.)

Direct-examination by Mr. Andrews:

1 Q. Are you one of the complainants in these causes?

A. I believe I am.

2 Q. Are you an owner and holder of Tennessee bonds.

A. Yes, sir.

6 3 Q. Will you produce before the examiner Tennessee bonds of which you are the owner and holder for his inspection, and that of respondent's counsel, here present?

A. Yes, sir.

(Witness produces 21 bonds of the State of Tennessee, issued to and sold by the East Tennessee & Virginia Railroad Co.

Also nine bonds of the State of Tennessee, issued to and sold by the East Tennessee & 7 Georgia Railroad Co.

Also three bonds of the State of Tennessee, issued to and sold by the Nashville & Chattanooga Railroad Co.

Also 16 bonds of the State of Tennessee, issued to and sold by the Memphis & Charleston Railroad Co.)

(Certified copies of these last are hereto annexed, marked Compl't's Exhibit No. 1, 8 W. H. D. L., Spl. Exr.)

(Certified copies of receipts given by the several railroads to the State for bonds are offered in evidence and filed separately, under a stipulation of counsel, as Complainant's Exhibits.)

Direct examination closed.

Adjourned to Oct. 14, 1879, 2 P. M.

Cross-examination by MR. HUMES : 9

4 x Q. How long have you owned the bonds you have here produced in evidence ?

A. Can't tell very well. I have owned some of them since 1859—1857-8 or '59 I think the oldest. I bought I don't know how many—probably fifty—within the last two years. I have over three hundred bonds altogether. I don't know whether these are among the fifty or not, probably some of them are. I have been trying to get the old bonds 10
when I bought.

5 x Q. The bonds you have purchased during the last two years were bought how ?

A. They were bought at the Stock Exchange.

6 x Q. When you made these purchases at the Stock Exchange did you make them in person or through a broker ?

A. Through a broker.

7 x Q. Did you instruct him by by oral orders or written ? 11

A. By oral orders.

8 x Q. What were those oral orders, as well as you can recollect ?

A. To buy old Tennessee bonds.

9 x Q. Did you know what were the numbers of the bonds, or for what purpose they were issued until after the broker delivered them to you ?

A. I bought them with the intention of buying bonds that were liens on railroads. I knew very well that if he bought old Tennessee bonds he would 12
buy bonds that were liens on the roads. I told him to buy bonds issued under the act of 1851-2, because I was always told that that was the act that made the bonds liens. I did not know the numbers till I got them.

10 x Q. Who were the brokers that bought the fifty bonds or so for you during the last two years ?

13 A. Mr. Lawrence, our broker, bought some, and a Mr. Ketchum bought some.

11 x Q. Are these gentlemen brokers in the city now?

A. Yes, sir.

12 x Q. Do I understand you, Mr. Kelly, to say that you gave your brokers any further instructions than simply to buy old Tennessee bonds?

A. That was all. I may have named the price.

13 x Q. As to the bonds bought by you more than
14 two or three years ago, did you or not buy them also through brokers?

A. Some of them.

14 x Q. Did not the State of Tennessee default in the payment of the interest coupons attached to the old bonds owned by you during the war?

A. It did.

15 x Q. Did you ever present or claim payment of any of said coupons from a railroad?

A. Never; that is, no formal demand until this
15 suit.

16 x Q. Did you not fund these coupons and register the bonds under the funding act of 1873?

A. I paid the charge exacted by some Tennessee official for having the bonds registered and the coupons funded into new bonds.

17 x Q. Have you not entered into a contract with Calvin Amory Stevens and others embodying the terms on which these suits are to be prosecuted?

16 A. I never had any contract with Mr. Stevens personally.

18 x Q. Have you made such a contract with other persons?

A. I agreed to pay my share of the expenses with other parties.

19 x Q. Is that contract in writing?

A. I will see, and answer to-morrow.

(Two papers produced and marked Respts Exhibits 1 and 2.—W. H. D. L., Spl. Exr.) 17

20 x Q. Did you sign a paper with E. D. Morgan & Co., Geddes, and others, to Gov. Porter, asking him to call a special session of the Legislature?

A. I did not; but I went to Nashville during the recent session of the Legislature to effect a compromise with the State.

21 x Q. Please produce and file a list of the bonds of Tennessee you own, as well as those you have 18 proved as those you have not?

A. I will see my counsel in relation to it, and I will produce and file it.

(List produced, marked Respt.'s Exhibit No. 3.—W. H. D. L., Spl. Exr.)

22 x Q. Did you not know while the Tennessee roads were buying up the Tennessee State bonds to settle their debt with the State under the acts of 1869 and of 1870, that they were so buying? 19

A. I did not know.

23 x 2. Did you not have some of the new substitution bonds of any of the companies offered to you?

A Not to my knowledge; and I never bought one.

EUGENE KELLY.

Subscribed and sworn before me, this 14th day of October, 1879. 20

WILLIAM H. DELANCEY,
Special Examiner.

I, WILLIAM H. DELANCEY, Special Examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the

21 above-entitled suit in the city of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at my office, No. 52 Broadway, in the city of New York, by the counsel and witness aforesaid. That the said witness was duly sworn in the above-entitled suit, and examined, and the deposition was reduced to writing and read to the witness, and by him subscribed in my presence; and that Exhibits hereto annexed, marked Complt.'s Exhibit No. 1,
22 and Respt.'s Exhibits Nos. 1, 2 and 3, were introduced in evidence in said cause during the taking of said deposition.

Dated Nov. 25th, 1879.

WILLIAM H. DeLANCEY,
Special Examiner.

IN THE CASE OF

23 CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the MEMPHIS & CHARLESTON RAILROAD COMPANY,

versus

24 THE MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.*

IN THE UNITED STATES CIRCUIT COURT

For the Western District of Tennessee.

I hereby certify that there were produced before me during the taking of the deposition of Eugene

Kelly in this cause sixteen (16) Tennessee bonds, each bond being for the principal sum of one thousand dollars and bearing the impression of the great seal of the State of Tennessee on the face thereof. 25

A true and exact copy of one of said bonds is as follows:

COMPLAINANT'S EXHIBIT No. 1. 26

W. H. D. L., Spl. Exr.

M. UNITED STATES OF AMERICA. M.

No. 326. B.

STATE OF TENNESSEE.

Know all men by these presents, that the State of Tennessee acknowledges to owe to or order, one thousand dollars, lawful money of the 27 United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1892, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an Act of the General Assembly of said State, passed at its ses- 28 sion of 1851-2.

In witness whereof, I, W. B. Campbell, Governor of said State, have hereunto signed my name and caused the same to be countersigned by the Secretary of said State, and the great seal of said State to be here-

29 to affixed, at Nashville, this 1st day of January, 1852.

W. B. CAMPBELL,
Governor.

W. B. A. RANNEY,
Secretary of State.

$1,000. $1,000.

The other fifteen (15) of said bonds are of like
30 tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 333, 429, 526, 529, 530, 607, 658, are dated on the 1st day of January, 1852; No. 1,575 is dated on the 1st day of January, 1855; Nos. 3,422, 4,427, 4,436, 4,495, 4,517, 4,569, 4,574, are dated on the 1st day of January, 1856.

Nos. 333, 429, 526, 529, 530, 607, 658, are signed: W. B. Campbell, Governor; W. B. A. Ranney, Secretary of State.

31 No. 1,575 is signed: Andrew Johnson, Governor; W. B. A. Ranney, Secretary of State.

Nos. 3,422, 4,427, 4,436, 4,495, 4,515, 4,569, 4,574, are signed: Andrew Johnson, Governor; F. N. W. Burton, Secretary of State.

Said bonds having thirty (30) coupons attached to Nos. 326, 333, 607, 4,436, 4,495, 4,517; thirty-three (33) coupons, attached to Nos. 429, 526, 529, 530, 658, 1,575, 3,422, 4,569, 4,574, and thirty-two (32) coupons attached to No. 4,427.

32 The last coupon attached to each of said bonds, being the coupon first falling due, is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay the bearer Thirty dollars, in the City of New York,

on the first day of July, 1877, being the semi-annua 33
interest then falling due on bond No. 326.

Arth. R. Crozier, Comptroller.

All the coupons attached to bonds numbered 326, 333, 429, 526, 529, 530, 607, 658, 1,575 are signed

Arth. R. Crozier, Comptroller.

All the coupons attached to Nos. 3,422, 4,427, 4,436, 4,495, 4,517, 4,569, 4,574, are signed

J. C. Luttrell, Comptroller.

There are five (5) overdue coupons upon each of 34
the following numbered bonds, viz: Bond No. 326, 333, 607, 4,436, 4,495, 4,517.

The last coupon thereof having fallen due on the 1st day of July, 1877. The other four of said coupons fall due at intervals of six months from the date of the coupon above-mentioned.

There are eight (8) overdue coupons upon each of the following numbered bonds, viz: Bonds No. 429, 526, 529, 530, 658, 1,575, 3,422, 4,569, 4,574—the
last coupon thereof having fallen due on 1st day of 35
January, 1876. The other seven (7) of said coupons fall due at intervals of six months from the date of the coupons above-mentioned.

There are seven (7) overdue coupons upon Bond No. 4,427, the last coupon thereof having fallen due on the 1st day of July, 1876, the other six (6) of said coupons fall due at intervals of six months from the date of the coupon above-mentioned.

All the aforesaid bonds with the coupons attached
thereto, were left by the witness, Eugene Kelly, for 36
inspection by me, and the solicitor for the respondents then and there present, and were inspected by me and by him.

The endorsements on said bonds are as follows: on Bond No. 326, "Registered under 9th section of Funding Act, approved March 17, 1873. Jno. C. Burch, Comptroller; Chas. N. Gibbs, Secretary of State."

			Audited	Dec. 16, 1873.
On Bond No.	333	same	“	“ “ “
“	429	“	“	June 2, 1874.
“	526	“	“	“ “ “
“	529	“	“	“ “ “
“	530	“	“	“ “ “
“	607	“	“	Dec. 16, 1873.
“	658	“	“	Aug. 18, 1874.
“	1575	“	“	Sept. 8, 1873.
“	3422	“	“	“ “ “
“	4427	“	“	Aug. 14, 1874.
“	4436	“	“	Dec. 16, 1873.
“	4495	“	“	“ “ “
“	4517	“	“	“ “ “
“	4569	“	“	Feb. 20, 1874.
“	4574	“	“	Aug. 7, 1873.

On Bond No. 607.

“State of Wisconsin. The within bond has been assigned to the State Treasurer as Banking Secuity. Bank Comptroller's office, Madison, Jun 2, 1857.”

Wm. W. Dennis,
Bank Comptroller.

“Madison, July 1, 1861. Released without recourse in any event to

Saml. D. Hastings,
State Treas'r Wis.

Witness:
Adolph J. Cramer,
O. G. Scofield.

State of Wisconsin, } ss.:
County of Dane.

On the 1st day of July, A. D. 1861, personally appeared before me the above-named Saml. D. Hastings, Treasurer of the State of Wis., to me known, and acknowledged the execution of the above release to be his free act and deed. 41

[L.S.]
O. G. SCOFIELD,
Notary Public,
Wis.

On Bond No. 526, }
On Bond No. 529, } Assigned and transferred by E. Cramer to the State Treasurer of the State of Wisconsin, in trust for the State Bank of Wisconsin. Madison, April 14, 1853. 42
On Bond No. 530, }

J. S. BAKER,
Bank Comptroller.

"CHAS. KUEHN,
State Treasurer.
By CARL HABICH,
Asst. State Treas'r." 43

On Bond No. 326, }
On Bond No. 333, } Assigned and transferred as above.

E. H. JANSON,
State Treasurer.
By D. A. SEAVER,
Asst. Treasurer.

Madison, July 1, 1861.
Released without recourse in any event to 44
SAMUEL D. HASTINGS,
State Treasurer Wis.

Witness:
ADOLPH J. CRAMER, }
C. H. PURPLE. }

45 "STATE OF WISCONSIN, } ss.:
County of Dane. }

On the 1st day of July, A. D. 1861, personally appeared before me the above-named Saml. D. Hastings, Treasurer of the State of Wisconsin, to me known, and acknowledged the execution of the above release to be his free act

46 and deed.

O. G. SCOFIELD,
[L.S.] *Notary Public*,
Wis.

RESPONDENT'S EXHIBIT No. 1,

W. H. D. L.,—Spl. Exr.

47 *To* THE COMMITTEE OF TENNESSEE BONDHOLDERS :

I hereby assent to the plan and conditions of the committee's circular of May 17th, 1879.

LIST OF BONDS.

COLOR.	LETTER.	NUMBERS.

48

RESPONDENT'S EXHIBIT NO. 2.—W. H. D. L., Sp'l. Ex'r. 49

OFFICE OF COMMITTEE OF
TENNESSEE BONDHOLDERS,
No. 31 Nassau Street.

P. O. Box 936. NEW YORK, May 17, 1879.

To the Holders of Tennessee Bonds:

In our last circular we informed you that the committee was considering the best means for enforcing
our first mortgage liens against the railroads in Ten- 50
nessee. After full deliberation, with advice of counsel, and with the approval of the following prominent houses interested: Brown Brothers & Co., Maitland, Phelps & Co., Ward, Campbell & Co.; and of the Presidents of the Seaman's Savings Bank, and the Globe Mutual Life Insurance Co. of New York; and of large individual holders in New York, Baltimore, Philadelphia and Chicago, we have decided to adopt the suits lately instituted by
Mr. C. Amory Stevens. Prompt action on the part 51
of the bondholders will enable us to bring these suits to trial during the ensuing summer.

It may be well for us to give some of the considerations that make us confident of a successful enforcement of the lien conferred on our bonds by the distinct language of the Tennessee Statutes. While Tennessee bonds of the new issue were being offered for sale in behalf of the railroads of the State, S. Watson, "agent for the State of Tennes-
see," addressed the following argument to the pub- 52
lic, which was printed in pamphlet form in 1868:

"The important question for the bondholder now
" is, What security have I for the payment of the
" principal and interest of my bond? The State
" debt proper is only about four millions. The
" railroads and all their rolling stock are mortgaged
" to the State to secure the *payment of bonds*

53 “ *loaned.* This mortgage, as bondholders must
“ know, enures to their benefit. For the payment
“ of twenty-nine million bonds, which will be the
“ entire amount of bonds issued to the roads, including
“ those that may be issued under the recent
“ Act of the Legislature, *the bondholders have*
“ *as security* roads which, when completed, will be
“ nearly two thousand miles in length, and which
“ will be worth fully seventy million dollars. In
“ addition to that, they have the whole resources
54 “ of the State solemnly pledged to them.”

Again, in 1868, when the Legislature of Tennessee
sought to impair our securities, Gov. Brownlow,
then chief executive, sent a message to that body
remonstrating against the proposed measures in the
following emphatic language:

“ The State, in point of honor and fact, holds the
“ lien in a fiduciary capacity. She holds it *in trust*
“ for the benefit of the bondholders. She honorably
“ has no right to abandon it or surrender it to
55 “ the companies. She ought not to prove faithless
“ in this *trust*, but maintain and execute it as the
“ bondholders understood it and as the people of
“ the State understood it. The bondholders are interested
“ in these resources to pay the bonds they
“ hold, and the people are interested in them to see
“ that they are not to be taxed to pay interest or
“ principal of bonds for which the railroads are
“ pledged by the terms of the law.”

The assurance of our rightful legal claims against
56 the railroads is strongly fortified by the following
facts:

In April, 1878, the committee addressed a circular
to the bondholders notifying them that it was
about to enforce this lien. We petitioned to be
heard in the Mobile and Ohio case then pending on
appeal before the Supreme Court of the United
States. In that suit the question whether or not

the holders of Tennessee bonds had a first mortgage 57
lien upon railroads in that State, was clearly presented. The cause was fully argued by several counsel for the railroad company as well as by our counsel, and the Court took the case under advisement. Some time after, while we were confidently awaiting a decision in our favor, we were surprised to learn that the railroad company had settled the case with the party to the record in that suit—that stipulations had been filed in the office of the Clerk
of the Supreme Court—that copies had been sent to 58
the several Judges of the Supreme Court—and, in short, that everything had been done by the railroad officials which it was possible to do to forestall a decision in the case. As we were not actual parties to that cause, we could not control the matter in any way so as to prevent a settlement. But, surely, we could not require any stronger evidence that the railroad companies were convinced of their own defeat. Otherwise they would have gladly
welcomed a decision which would have relieved 59
their property from the burden of this lien, and would have done everything in their power to have secured a final adjudication in their favor instead of preventing a decision.

We call your special attention to the accompanying opinion of Mr. Charles O'Conor. It was given under a deep sense of moral responsibility in course of advice sought by a bondholder to enable him to determine whether or not to embark in a litigation
against the railroads. A letter signed by Messrs. 60
Evarts, Southmayd & Choate, in which it is stated that they have not time to prepare an opinion against us, has been circulated in the interest of the railroads. That letter bases its conclusions on the Minnesota case, which, we are informed by Mr. O'Conor, bears in our favor so far as it is at all applicable to the Tennessee case. It is sufficient to

61 add that Mr. Southmayd, of the above firm, urged, before the Supreme Court, that same decision in the Minnesota case as a precedent in favor of his clients; but the effect was not convincing enough to induce those clients to refrain from a settlement of the case as before stated.

We append a list of roads on which Tennessee State bonds are first mortgage liens, and the amount of bonds outstanding against each road.

62 East Tennessee, Virginia & Georgia Railroad, leased lines and branches:

East Tennessee & Georgia Railroad	$614,000
East Tennessee & Virginia Railroad	1,218,000
Memphis & Charleston Railroad	830,000
Cincinnati, Cumberland Gap & Charleston Railroad	350,000
East Tennessee & Western North Carolina Railroad	34,000
63 Total	$3,036,000

Louisville & Nashville Railroad Company, and purchased and leased lines:

Main Line	$ 298,000
Memphis, Clarksville & Louisville Railroad	791,000
Memphis & Ohio Railroad	1,176,000
Tenn. & Ala. R. R., } Nash. & D.R.R.,	468,000
Cent. Southern R. R., } Nash. & D.R.R.,	362,000
64 St. Louis & South-Eastern Railroad Company, on account of Edgefield & Kentucky Railroad	645,000
Total	$3,740,000

Nashville, Chattanooga & St. Louis Lines:		65
Nashville & Chattanooga	$ 114,000	
Nashville & North-Western	1,385,000	
Winchester & Alabama	457,000	
McMinnville & Manchester	356,000	
Total	$2,312,000	
Mobile & Ohio Railroad	953,000	
New Orleans, St. Louis & Chicago Railroad on account Mississippi Central and Tennessee Railroad	480,000	66
Knoxville & Ohio Railroad Company on account of Knoxville & Kentucky Railroad	514,000	
The above amounts and some issues to smaller roads make an aggregate of railroad issues made by the State of Tennessee, and which are still outstanding	11,647,000	
On which there is accrued 23 per cent. interest	2,678,810	67
Total due	$14,325,710	

Bondholders will please note that "New" bonds, issued to Tennessee railroads, and "Funding Series" bonds, not included in the above list, issued in payment of interest which accrued on railroad bonds under the Funding Acts of 1866, 1868 and 1873, are also statutory liens upon the railroads.

The members of the committee are owners to a large amount of bonds that are not liens on the railroads, which they do not propose to fund into the 50 and 4 per cent. bonds offered. They believe that the enforcement of the railroad liens will bring about a much better settlement than is now proposed. It is our duty to inform you that the legality of the proposed issue of the new 4 per cent. com- 68

69 promise bonds is already questioned in Tennessee,
for want of sufficient acceptances to authorize the
submission of the proposed settlement to popular
vote, as required by the Act of the last General Assembly.

Holders of North Carolina State bonds, issued in
aid of the North Carolina Railroad Company, will
recollect how that State made an unsuccessful attempt
to deprive such bondholders of the lien originally
70 intended for their security. A like attempt
in the State of Indiana, in the case of the Wabash
and Erie Canal, was also unsuccessful, and the lien
decided in favor of the bondholders.

Bondholders wishing to secure the benefits resulting
from this litigation can do so on the following
conditions, to wit: by depositing with the committee
five dollars per lien bond in cash, and one past
due coupon from each bond of that description.
This will be required to defray the necessary costs
71 and expenses of the litigation. In no event will the
bondholders be called upon for any further assessment,
nor do they incur any personal liability by
uniting in this plan. Should any surplus funds remain
in the hands of the committee after all expenditures
have been provided for the same will be returned
to bondholders *pro rata*. Those who do not
comply with the aforesaid conditions will be excluded
from the benefits derived from the action of the
committee. A certificate will be issued to each assenting
72 bond, entitling it to any and all advantages
resulting from these legal proceedings, and specifying
the railroad company bound for the payment of
the bond. An arrangement for calling these certificated
bonds for dealings in them on the New York
Stock Exchange will be made.

When it is considered that the enforcement of

these liens should make the great mass of the internal improvement bonds worth par and accrued interest, or 123 per cent., the advisability of the course which we have adopted cannot be reasonably doubted. Your signature to the enclosed assent, stating color, number and serial letter of each of your bonds is requested before June 10th. Upon receipt by the committee of the assents of a sufficient number of bonds, the holders will be notified of the issue of the certificates to be attached to the lien bonds. We propose to engage as counsel Chas. O'Conor and E. L. Andrews, of New York, and George Hoadly, of Cincinnati. to be assisted by competent counsel at Memphis, Nashville, Knoxville and Louisville. 73 74

Committee of Tennessee Bondholders.

EUGENE KELLY,
Of Eugene Kelly & Co.
JOHN T. TERRY,
Of E. D. Morgan & Co.
JAS. G. K. DUER,
Of James G. King's Sons. 75
PETER GEDDES,
Of Geddes & Smith.
R. S. MORAN,
Of 107 East 29th St., N. Y.

C. Amory Stevens,
Treasurer.

Thomas G. Robinson,
Secretary.

76

69 promise bonds is already questioned in Tennessee, for want of sufficient acceptances to authorize the submission of the proposed settlement to popular vote, as required by the Act of the last General Assembly.

Holders of North Carolina State bonds, issued in aid of the North Carolina Railroad Company, will recollect how that State made an unsuccessful attempt to deprive such bondholders of the lien originally intended for their security. A like attempt 70
in the State of Indiana, in the case of the Wabash and Erie Canal, was also unsuccessful, and the lien decided in favor of the bondholders.

Bondholders wishing to secure the benefits resulting from this litigation can do so on the following conditions, to wit: by depositing with the committee five dollars per lien bond in cash, and one past due coupon from each bond of that description. This will be required to defray the necessary costs
71 and expenses of the litigation. In no event will the bondholders be called upon for any further assessment, nor do they incur any personal liability by uniting in this plan. Should any surplus funds remain in the hands of the committee after all expenditures have been provided for the same will be returned to bondholders *pro rata*. Those who do not comply with the aforesaid conditions will be excluded from the benefits derived from the action of the committee. A certificate will be issued to each as-
72 senting bond, entitling it to any and all advantages resulting from these legal proceedings, and specifying the railroad company bound for the payment of the bond. An arrangement for calling these certificated bonds for dealings in them on the New York Stock Exchange will be made.

When it is considered that the enforcement of

these liens should make the great mass of the internal improvement bonds worth par and accrued interest, or 123 per cent., the advisability of the course which we have adopted cannot be reasonably doubted. Your signature to the enclosed assent, stating color, number and serial letter of each of your bonds is requested before June 10th. Upon receipt by the committee of the assents of a sufficient number of bonds, the holders will be notified of the issue of the certificates to be attached to the lien bonds. We propose to engage as counsel Chas. O'Conor and E. L. Andrews, of New York, and George Hoadly, of Cincinnati. to be assisted by competent counsel at Memphis, Nashville, Knoxville and Louisville. 73 74

Committee of Tennessee Bondholders.

EUGENE KELLY,
Of Eugene Kelly & Co.
JOHN T. TERRY,
Of E. D. Morgan & Co.
JAS. G. K. DUER,
Of James G. King's Sons. 75
PETER GEDDES,
Of Geddes & Smith.
R. S. MORAN,
Of 107 East 29th St., N. Y.

C. Amory Stevens,
Treasurer.

Thomas G. Robinson,
Secretary.

76

77

RESPONDENT'S EXHIBIT No. 3.

W. H. D. L., Spl. Exr.

Tennessee Bonds, property of EUGENE KELLY.

220
289
292
321
333
429
526
529
530
607
78 658
726
900
901
902
797
1047
1052
1575
1773
1811
1820
1825
1897
1974
1998
2240
5035
5036
5077
79 5252
5253
2786
2792
2822
3088
3124
3305
3422
3543
3548
3616
3702
3876
4436
4495
4427
4475
4517
4569
4574
4597
4708
4738
4789
4875
4876
4877
4878
5254
5505
5545
5586
5584
4955
4956
5047
5188
5322
5417
5628
5786
5787
5838
5846
5906
5342
6108
6327
6329
6349
6484
6807
6830
7019
7021
7046
7117
7129
7173
7177
5798
5799
5800
5801
5951
7422
7490
7542
7839
7886
7918
7943
7986
8202
8207
8214
8241
8553
8670
8672
8673
8772
8981
9011
9358
9961
10561
8593
8621
8851
9053
9079
5952
5961
5962
5993
6234
9460
9500
9551
9537
9466
9618
9621
9683
9713
10021
10399
10486
10772
10773
10926
10960
10963
11055
11094
11176
11177
11201
11475
11653
49
64
63
6527
5129
192
263
315
399
485
527
574
584
597
609
1037
1162
926
1254
1276
1315
1563
1630
1752
91
94
97
161
520
1055
1346
1365
3009
3355
4076
4188
4159
4390
4392
4458
4680
4833
1539
1540
624
1858
1860
1882
2172
2173
2174
2176
2177
3782
3996
4998
5923
2850
6604
7302
8879
9003
785
803
789
2852
3181
242
243
244
365
366
367
368
369
574
575
990
991
992
993
1063
1064
1325
1612
1613
1616
1617
1618
1619
1620
1621
1622
1623
1624
1625
1626
1527
1628
1629
1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1640
1641
1642
1645
1646
1647
1648
1649
1650
2124
2217
2218
2396
2614
2616
2629
2860
2862
2863
3087
3855
3856
3907
3911
3912
3914
3971
3972
3973
3974
2688
2714
4953
4954
7182
7316
9271
9291
73
187
2128
2992
6675
6685
1614
1615
1643
1644
3975
3976
3977
3978
4771
5031
5032
5033
5034

319 Bonds.

80

1

IN THE UNITED STATES CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE.

IN THE CASE OF

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement bonds of Tennessee, issued to the NASHVILLE AND CHATTANOOGA RAILROAD COMPANY, 2

versus

THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY *et al.* 3

I hereby certify that there were produced before me during the taking of the deposition of Eugene Kelly in this cause, three (3) Tennessee bonds, each bond being for the principal sum of one thousand dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof. 4

A true and exact copy of one of said bond is as follows:

5 **Complainants' Exhibit No. 1.**

W. H. D. L.,
Spl. Exr.

M. UNITED STATES OF AMERICA. M.

No. 10,772 B.

STATE OF TENNESSEE.

Know all men by these presents, that the State of Tennessee acknowledges to owe to or order, one thousand dollars, lawful money of the United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1898, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is irrevocably pledged, as this bond is issued in pursuance 7 and under the provisions of an Act of the General Assembly of said State, passed at its Session of 1851-2, and Acts amendatory thereto.

6

In witness whereof I, Isham G. Harris, Governor of said State, have hereunto signed my name, and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 8 1st day of January, 1860.

ISHAM G. HARRIS,
Governor,
J. E. R. RAY,
Secretary of State.

$1,000. $1,000. 9

The other two of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows:

10,773, 11,201.

All of said bonds are dated on the 1st day of January, 1860, and are signed

ISHAM G. HARRIS,
Governor, 10
J. E. R. RAY,
Secretary of State.

Said bonds having forty-five coupons attached to Nos. 10,772 and 10,773, and forty-two coupons attached to No. 11,201.

The last coupon attached to each of said bonds being the coupon first falling due, is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof: 11

$30. $30.

The Treasurer of the State of Tennessee will pay the bearer thirty dollars, in the City of New York, on the first day of January, 1876, being the semi-annual interest then falling due on bond No. 10,772.

J. T. DUNLAP,
Comptroller.

12 All coupons attached to bonds numbered 10,773 and 11,201 are signed

J. T. DUNLAP,
Comptroller.

There are eight overdue coupons upon each of the following numbered bonds, viz.: Bond No. 10,772 and 10,773, the first coupon thereof having

13 fallen due on 1st day of January, 1876. The other seven of said coupons fall due at intervals of six months from the date of the coupon above-mentioned.

There are five overdue coupons upon bond No. 11,201, the first coupon thereof having fallen due on the 1st day of July, 1877. The other four of said coupons fall due at intervals of six months from the date of the coupon above-mentioned.

14 All the aforesaid bonds with the coupons attached thereto, were left by the witness, Eugene Kelly, for inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

The endorsements on said bonds are as follows:

"On bond No. 10,772, registered under 9th section of Funding Act, approved March 17, 1873.

15 JOHN C. BURCH,
Comptroller,
CHAS. N. GIBBS,
Secretary of State."

Audited Dec. 16th, 1873.

On bond No. 10,773, " " " "
" " 11,201, " " " "

WILLIAM H. DELANCY,
16 *Special Examiner*.

Deposition of John T. Terry.

UNITED STATES CIRCUIT COURT,

WESTERN DISTRICT OF TENNESSEE. 1

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the MEMPHIS & CHARLESTON RAILROAD COMPANY,

versus

THE MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.* 2

Testimony and proofs for final hearing on the part of the complainants, taken before WILLIAM H. DELANCEY, Special Examiner, duly appointed herein under and pursuant to the 67th Rule in Equity, as amended.

52 BROADWAY, NEW YORK,
October 10th, A. D. 1879. 3

Met pursuant to notice.

Present—Mr. E. L. ANDREWS, for Complainants.
Mr. W. Y. C. HUMES, for Respondents.

JOHN T. TERRY, a witness produced on the part of the complainants, being first duly cautioned and sworn in the above-entitled suit to testify the truth, the whole truth and nothing but the truth, deposes and says:

(Deposition taken subject to all legal objections of both parties.) 4

5 *Direct Examination* by **MR. ANDREWS**:

1 Q. Are you one of the complainants in these causes?

A. I am.

2 Q. Are you an owner and holder of Tennessee bonds?

A. I am.

3 Q. Will you produce before the Examiner, for his inspection, and that of counsel for respondents here present, Tennessee bonds of which you are the 6 owner and holder.

A. I will. There they are.

(Witness produces six bonds of the State of Tennessee issued to and sold by the Memphis & Charleston R. R. Co.—*three white, three green.*)

(Certificate of said white bonds is hereto annexed, marked "Compl't's Exhibit No. 1, 7 W. H. D'L., Sp'l Ex'r.")

(Certificate of said green bonds is hereto annexed, marked "Compl't's Exhibit No. 2, W. H. D'L., Sp'l Ex'r.")

(Certified copies of receipts given by the railroad companies to the State for bonds are offered in evidence, and marked as Complainant's Exhibits, and filed, under a stipulation 8 of counsel, separately.)

Direct examination closed.

Cross-examination by **MR. HUMES**:

It is stipulated and agreed by both parties that, as to any bonds proved by Mr. Terry, issued after the Act of 1860, the numbers to

include them shall be restored in the bill as 9
originally printed.

E. L. ANDREWS,
Sol'r for Compl'ts.
W. Y. C. HUMES,
Sol'r for Def't.

4 x Q. From whom, and at what date and price, did you purchase bonds Nos. 3,672, 3,673 and 3,866, Green B, dated 1 Jan'y, 1868?

10

(Objected to as immaterial.)

A. Seven or eight years ago. All these bonds cost at the prices in the Exhibits which I will furnish. I will examine, and, if I can, give the exact dates and prices.

(Paper produced, marked "Resp't's Exhibit No. 1, W. H. D'L., Sp'l Ex'r.")

5 x Q. Same question as to Nos. 719, 3,515, 4,237. 11
White B.

A. Same answer.

6 x Q. Are you not a member of the firm of E.D. Morgan & Co., and did you not buy these bonds on account of the firm?

A. I am, and did so buy them, and also on account of the firm of J. S. Morgan & Co., of London.

7 x Q. Before Gov. Morgan, a member of your
firm, went to Europe in 1873, did you not sell out 12
entirely your Tennessee bonds, and did you not purchase these Tennessee bonds after he went to Europe, or since?

A. When Gov. Morgan was in the Senate of the United States, he wrote us that he had conferred with the members of Congress and senators, and, also, I think, with Andrew Johnson, of

13 Tennessee, and that he had a very high opinion
of Tennessee bonds, in consequence of which we
became purchasers of Tennessee bonds. This was
while he was in the Senate—his term, I think was
from 1863 to 1869. We sold out these bonds, and
bought bonds and have owned them more or less
ever sinc.

The bonds we now hold were bought from January, 1873 to August, 1873. We also bought some
in March and April, 1875. According to my best
14 recollection we have not sold a single bond since
1873, except as appears from the Exhibits. We
sold twenty new bonds and bought twenty old
bonds which do not appear on the Exhibit. The
firm of E. D. Morgan & Co. bought these.

8 x Q. Do you know whether E. D. Morgan & Co. had a correspondence with Gov. Porter in 1876-77?

A. I do. I think I wrote the letters and telegrams.

15 9 x Q. Did you sign a proposition signed by
some twenty or thirty other bondholders and agents
of bondholders addressed to Gov. Porter of Tennessee, dated either in December, 1876, or January
or February, 1877, requesting him to submit a proposal therein contained to the General Assembly
of the State of Tennessee of compromise in respect
to the bonds you have now proved in these cases,
and others that you then may have had?

16 (Objected to as not the best evidence, and immaterial.)

A. I have an impression that I did, but I cannot answer the question fully without seeing the document itself.

10 x Q. Are the bonds you have now sued upon all the bonds you purchased in 1873-75?

(Objected to because other property belonging to the witness not in these suits has no relevancy or materiality to the case.) 17

A. No, sir. I wish they were.

11 x Q. Were not the other bonds you purchased in 1873–5 bonds issued by the State of Tennessee for purely State purposes and not to railroads, and did you not buy them at the same price at the same date ?

A. I supposed all these bonds were liens on railroads, and was deceived. I think I, or my firm, or any one I am interested in have very few bonds except those issued to or for railroads. 18

12 x Q. Please furnish the numbers of all the bonds which you purchased in 1873–75, and full description showing which are railroad bonds and which are not ?

A. I will, if I can.

Adjourned to October 11th, 10:30 A. M. 19

NEW YORK, Oct. 11, 10:30 A. M.

Present—Counsel as before.

Cross-examination resumed :

Witness produces and files with his deposition the Exhibits called for in the last question.

(Marked Respondents' Exhibit No. 2.—W. H. D. L., Spl. Ex'r.) 20

13 x Q. What was the mode of selling and buying bonds in 1873–74–75 ?

A. According to my recollection, in 1873, bonds were sold as State bonds without any regard to their issue, but I am not quite sure whether they were not sold as old or new bonds at that time.

21 14 x Q. What was the distinction between old and new bonds ?

A. I should say that the old bonds were antebellum bonds.

15 x Q. Is it not a fact that the old bonds were distinguished from the new bonds by having several unpaid coupons attached to each of them which the new did not have ?

A. I am unable to give an intelligent answer to that question.

22 16 x Q. When bonds were sold at the Board of Brokers, please state fully and minutely the mode of bringing them before the Board for sale, and of selling them, and of their delivery ?

A. I never was in the Board in my life ; I cannot therefore answer the question. We buy through brokers, and they bring them in and we pay for them ; we are not brokers.

17 x Q. Did you buy the bonds contained in your Exhibit through brokers or not ?

23 A. We bought them all through brokers except the 74 which were funded.

18 x Q. In giving your order to the brokers how was it expressed ?

A. I don't think it was ever given in writing ; we gave verbal orders sometimes to buy old and sometimes new bonds.

19 x Q. Did you or any member of your firm ever see the the bonds purchased until they were delivered by the brokers ?

24 A. No, sir.

20 x Q. Did you ever designate any particular Tennessee railroad of those shown on your Exhibit, in directing your brokers to purchase Tennessee bonds ?

A. We did not and could not, as bonds are not sold in that way at the Board ?

21 x Q. How are they sold at the Board ?

A. They are sold as old and new bonds, and new series. 25

22 x Q. Then the purchaser cannot tell what bonds he is to get under his purchases at the Board until they are delivered ?

A. He cannot.

23 x Q. Were not all of yours purchased at the Board ?

A. Yes, sir ; I believe they were, except the funded bonds which we funded ourselves.

24 x Q. Please give me the names of the brokers who purchased your bonds ? 26

A. I cannot ; we have no record of the brokers from whom we purchased bonds that I recollect of. We give a broker an order for bonds—say fifty, and he delivers them, and we pay for them. It is possible our book-keeper may be able to tell. I can't tell from whom we bought a single bond.

25 x Q. How and when did you ascertain the railroads to whom the bonds were issued that are contained in your Exhibit ? 27

A. I ascertained from Peter Geddes' clerk ; Mr. Robinson, the Secretary of Com. of Tennessee bondholders had the list ; he did so within the last two or three years.

26 x Q. When was the Committee of Tennessee bondholders first organized ?

A. Three or four years ago this past summer.

27 x Q. Have you made an agreement with Calvin Amory Stevens and others, embodying the terms upon which these suits are to be prosecuted ; if yea, is that agreement in writing ? 28

(Objected to as immaterial and irrelevant.)

Complainants' counsel asks what respondents' counsel proposes to show.

The witness not having answered this question, it is agreed by counsel on both

29 sides to refer this question to Judge Blatchford, as to its legality under the above objection. Until this is decided the cross-examination is suspended.

Re-direct-examination by Mr. Andrews:

28 Q. Did you become the individual owner of the bonds you have proved before the Examiner by purchase from the firm of E. D. Morgan & Co?

A. I did.

30 29 Q. When your firm of E. D. Morgan & Co. and yourself became the owners of Tennessee bonds were you not aware that they were first mortgage liens upon railroads in that State?

(Respondent's counsel objects as illegal and incompetent, because it is leading, and because it asks for a legal opinion from the witness.)

A. We were so informed by the Treasurer of the State of Tennessee in our office.

31

(Respondent's counsel objects to the answer as illegal and incompetent, because it is mere hearsay.)

30 Q. When your firm and yourself became purchasers of Tennessee bonds, what security for the payment of those bonds and the interest thereon did you believe you were acquiring by such purchases?

A. I supposed the railroads would pay the amount
32 into the State, and we should receive it from the
State, the State making good any deficiency.

31 Q. What security on property did you think you were acquiring by such purchases?

A. The security of the railroads—first mortgages.

32 Q. In answer to the question relating to the letter to Governor Porter you stated that you thought the firm of E. D. Morgan & Co. might have

been one of the signers of that letter; did you not 33
have conferences with R. T. Wilson on the subject of that communication and the proposed compromise then pending?

A. I did.

33 Q. Is this the same R. T. Wilson who is an officer of the Tennessee railroad?

A. Yes, that is the gentleman.

34 Q. Mr. Wilson was very active in efforts to procure the Tennessee bondholders to surrender
their bonds and accept a new obligation from the 34
State of Tennessee, was he not?

> (Respt's counsel objects as incompetent and illegal because it is leading and not proper on re-examination.)

A. If you mean to ask me if Mr. Wilson was very active in endeavoring to procure a settlement with the State, I answer he was.

35 Q. Was he not also very active in procuring
the bondholders to enter into the arrangement de- 35
scribed in my previous question?

> (Same objection.)

A. He wanted to have us all agree to a compromise, if that is what you mean.

36 Q. What did you understand was the interest of R. T. Wilson in his anxiety to induce the Tennessee bondholders to surrender their present hold-
ings and accept other bonds of the State of Tennes- 36
see?

A. I inferred that the object was a desire to have the railroads relieved from their obligations on the bonds.

> (Respt's counsel objects to answer as illegal and incompetent.)

37 37 Q. Did you state anything to R. T. Wilson about the time of his efforts to carry through the settlement above referred to, in reference to the liens of Tennessee bonds on railroads in that State, and if you stated anything, what?

A. I can't state exactly what I said to him, but
we had a conversation on the subject. I expressed
the opinion that the bondholders might bring a suit
against the roads, to which he replied: "That ends
it; I would have nothing to do with the matter
38 further," or words to that effect. That is, if the
suits were brought, he would have nothing more to
do with us in attempting to effect a compromise
with the State.

38 Q. Was it not about this time that you had the written opinion of one of the most distinguished lawyers in Tennessee to the effect that Tennessee bonds were made paramount liens on railroads by statutes of that State?

39 (Respt's counsel objects, because it calls for incompetent, hearsay, as well as secondary evidence, and also as leading.)

A. I think it was.

Re-cross examination by Mr. Humes:

39 x Q. Who was the Tennessee treasurer with whom you had the conversation in your office, and when was it?

A. My impression is his name was Morrow, and
40 he had some Tennessee bonds for sale. This was
previous to these purchases in 1873, to the best of my
rocollection. It was since the war. The conversation
with Mr. Wilson, which I have testified to, took
place about the time of the letter to Governor Porter, in '76 or '77.

Adjourned to Oct. 17, 1879.

OCTOBER 17, 1879. 41

40 x Q. Will you now answer cross-question 27, just read to you by the Examiner?

A. I produce two papers which embody the agreement.

Papers marked in evidence,
Resp'ts. Exhibit No. 3, W. H. D. L., Spl, Exr.
" " " 4, W. H. D. L., Spl. Exr.

42

41 x Q. Are those two papers the agreement you signed?

A. I believe they are copies of them; correct copies of them.

42 x Q. Is that agreement embodied in these two papers, the only one that you have entered into for the prosecution of these suits?

A. We have entered into no contract which includes the payment of all our counsel.

43 x Q. I ask again, whether the foregoing Exhibits contain the only agreement that you have made for the prosecution of these suits? 43

(Compl'ts' counsel objects to the question as immaterial and irrelevant, and he objects to any answer, and consents to waive subpœna and to go before Judge Blatchford on the validity of the question.)

A. Under advice of counsel I decline to answer.

44 x Q. Did you join in the preparation of that paper and sign the name of E. D. Morgan and Co. to it? 44

A. I cannot answer that question, but I admit E. D. Morgan & Co., signed it, some one of the firm.

(This paper is the same as annexed to deposition of Peter Geddes, as Respondents'

45 Exhibit No. 1, and it is consented that it need, not be attached to this deposition.)

45 x Q. Did a member of the firm of E. D. Morgan & Co. sign the letter now shown you of Feby. 23, 1877, addressed to his Excellency, James D. Porter, Governor of Tennessee ?

A. I recognize the signature as that of my partner. I think I was temporarily absent in Cuba at the time.

46 46 x Q. On the bonds which you held prior to 1873 were there not attached a number of unpaid coupons, I mean on the old Tennessee Sixes ?

A. I think there were.

47 x Q. Did your firm or you ever claim, demand or present for payment any of these unpaid coupons (while you held them) to any railroad Co. ?

A. No, sir ; I think not.

48 x Q. Were you not aware that the railroads were negotiating for State bonds, and attempting 47 to sell their own to purchase State bonds to make settlements of their debts to the State while these negotiations were progressing ?

A. I was not.

49 x Q. When in the spring of 1870, the East Tennessee Va. & Ga., Railroad Co. were endeavoring to purchase State bonds with which to pay their debt to the State, were you not aware or in formed of it ?

A. I was not ; never knew they bought a bond.

48 50 x Q. Were you not informed or aware of this same company's efforts in New York City, through the Stock Exchange, of New York, and other parties to sell their substitution bonds ?

A. I was not, and never knew they had a bond out on the road till within a few weeks. Never heard of it.

Adjourned to 20th Oct., 1879.

OCTOBER 20th, 1879. 49

Adjourned to further notice.

NOVEMBER 24th, 1879.

And further deponent saith not.

JOHN T. TERRY.

Subscribed and sworn before
me this 24th day of November, A, D. 1879.

WILLIAM H. DELANCEY,
Special Exaniner. 50

I, WILLIAM H. DELANCEY, Special Examiner, duly appointed by the Circuit Court of the United States, for the Western District of Tennessee, to take the testimony and proofs of both parties, in the above-entitled suit, in the city of New York, do hereby certify that on the several days named in the deposition hereunto annexed I was attended at my office, No. 52 Broadway, in the City 51 of New York, by the counsel and witness aforesaid.

That the said witness was duly sworn in the above-entitled suit and examined, and the deposition was reduced to writing and read to the witness and by him subscribed in my presence. And that the Exhibits hereto annexed marked Complts., Exhibits, No. 1, 2, and Respondents Exhibits, No. 1, 2, 3 and 4, were introduced in evidence in said cause during the taking of said deposition. 52

Dated 24 Nov., 1879.

WILLIAM H. DELANCEY,
Special Examiner.

53 In the case of Calvin Amory Stevens, *et al.*, on behalf of the holders of Internal Improvement Bonds, of Tennessee issued to the Memphis & Charleston Railroad Company

versus

54 The Memphis & Charleston Railroad Company, *et al.*

In the United States Circuit Court,

For the Western District of Tennessee.

I hereby certify that there were produced before me during the taking of the deposition of John T. Terry in this cause three (3) Tennessee Bonds, each 55 bond being for the principal sum of one thousand dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows:

COMPLAINANTS EXHIBIT, No. 1,

W. H. D. L., Sp'l Ex'r.

56 M. United States of America. M.

No. 719. B.

State of Tennessee.

Know all men by these presents, that the State of Tennessee acknowledges to owe to or order, one thousand dollars, lawful money of the

United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1892, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an Act of the General Assembly of said State, passed at its Session of 1851-2. 57 58

In witness whereof I, W. B. Campbell, Governor of said State, have hereunto signed my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 1st day of January, 1852.

W. B. CAMPBELL, 59
Governor.

W. B. A. RANNEY,
Secretary of the State.

$1,000. $1,000.

Color, white.

The other two (2) of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 3,515, 4,237. 60

All of said bonds are dated on the 1st day of January, 1856.

Nos. 3,515, 4,237 are signed:

ANDREW JOHNSON,
Governor.

FR. N. W. BURTON,
Secretary of State.

61 Said bonds having thirty-two (32) coupons attached to each bond.

The last coupon attached to each of said bonds being the coupon first falling due is in all respects except as hereinafter stated similar and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay the bearer thirty dollars, in the City of New York, on the first day of July, 1876, being the semi-annual
62 interest then falling due on bond No. 719.

ARTH. A. CROZIER,
Comptroller.

All the coupons attached to bonds number 3,515, 4,237 are signed.

J. C. LUTTRELL,
Comptroller.

There are seven (7) overdue coupons upon each
63 of the afore numbered bonds, the first coupon thereof having fallen due on the 1st day of July, 1876. The other six of said coupons fall due at intervals of six months from the date of the coupon above mentioned.

All the aforesaid bonds with the coupons attached thereto, were left by the witness, John T. Terry, for inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

64 The endorsements on said bonds are as follows: on bond No. 719, registered under 9th Section of Funding Act, approved May 17, 1873. Jno. C. Burch, Comptroller, Chas. N. Gibbs, Secretary of State.

Audited, January 26, 1874.

On bond No. 3,515, same " " " "
" " " 4,237, " " " " "

On the face of bond 3,515 are the words "approved as 3,515." 65

William H. DeLancey,
Special Examiner.

66

In the case of Calvin Amory Stevens, *et al.*, on behalf of the holders of Internal Improvement Bonds, of Tennessee, issued to the Memphis & Charleston Railroad Company

versus 67

The Memphis & Charleston Railroad Company *et al.*

IN THE UNITED STATES CIRCUIT COURT,

For the Western District of Tennessee.

I hereby certify that there were produced before me during the taking of the deposition of John T. Terry in this cause three (3) Tennessee Bonds, each bond being for the principal sum of one thousand dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof. 68

A true and exact copy of one of said bonds is as follows:

69 COMPLAINANTS EXHIBIT No. 2.

W. H. D. L. *Spl. Exr.*

$1,000. $1,000.

UNITED STATES OF AMERICA.

No. 3,672. No. 3,672.

Know all men by these presents, that the State of 70 Tennessee acknowledges to owe to or order, one thousand dollars of the lawful money of the United States of America, which the said State promises to pay in the city of New York, on the 1st day of January, 1900, with the interest thereon at the rate of six per centum per annum, according to the tenor, and upon the presentation of the coupons hereunto attached. For the payment of said sum of money and the interest thereon at the times and places and in the manner aforesaid, the 71 faith of the State of Tennessee is irrevocably pledged. This bond being issued in pursuance and by authority of an Act of the General Assembly of said State, passed February the 11th, 1852, "to establish a system of internal improvements in said State," and the acts of said General Assembly amendatory thereof, and the act of December 7th, 1867.

In testimony whereof and in pursuance of the act aforesaid, I, W. G. 72 Brownlow, Governor of the State of Tennessee, have hereunto subscribed my name officially, and caused the same to be countersigned by the Secretary of State, with the Great Seal of the State affixed. Done at the Executive Department in the city of Nashville, this 1st day of January, A. D. 1868. 73

W. G. BROWNLOW,
Governor.

A. J. FLETCHER,
Secretary of State.

Color green.

The other two (2) of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 74
3,673—3,866.

All of said bonds are dated on the 1st day of January, 1868.

Nos. 3,673—3,866 are signed.

W. G. BROWNLOW,
Governor.

A. J. FLETCHER,
Secretary of State. 75

Said bonds having forty-eight (48) coupons attached to each bond.

The last coupon attached to each of said bonds, being the coupon first falling due, is in all respects except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30. 76

The Treasurer of the State of Tennessee will pay to the bearer thirty dollars, in the city of New York, on the first day of July, 1876, being semi-annual interest due on bond No. 3,672.

G. W. BLACKBURN,
Comptroller.

77 All the coupons attached to bonds numbered 3,673—3866, are signed by

G. W. BLACKBURN,
Comptroller.

There are seven (7) overdue coupons upon each of the above numbered bonds, the first coupon having fallen due on the 1st day of July, 1876. The other six of said coupons fall due at intervals of six months from the date of the coupon above
78 mentioned.

All the aforesaid bonds with the coupons attached thereto, were left by the witness, John T. Terry, for inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

The endorsements on said bonds are as follows: on bond No. 3,672, "registered under 9th section of funding act, approved March 17th, 1873."

79 JNO. C. BURCH,
Comptroller.
CHAS. N. GIBBS,
Secretary of State.
Audited Jan. 26, 1874.

On bond 3,673, same, " " " "
3,866, same, " " " "

WILLIAM H. DELANCEY,
Special Examiner.

80

RESPONDENT'S EXHIBIT No. 1, 81

W. H. D. L., Spl. Ex'r.

BOUGHT.

1873.					
Jany.	30	25	Bonds, at	$81\frac{7}{8}$	
Feby.	15	85	" at av'ge	$83.36\frac{2}{8}\frac{5}{5}$	
July	23	15	" "	$81\frac{1}{8}$	
	25	2	" "	$80\frac{7}{8}$	
	28	30	" "	$81\frac{5}{8}$	
Aug	2	35	" "	$81\underline{^{66}}$	82
	12	25	" "	$82\frac{1}{8}$	
	18	5	" "	"	
	23	12	" "	"	
	20	9	" "	"	
	25	5	" "	"	
		——			
1874.		248	" "	"	

Jany. or } 74 " for coupons above Bds. funded & a fracn. bot. to make a bond.
Feby. } —— "
322 " 83

SOLD.

1874.
Mar. 6 20 Bonds, at 71—$\frac{1}{8}$
50 30 " " 71—$\frac{1}{4}$
—— ——
272

BOUGHT.

1875.					84
Mar.	31	6	Bonds, at	48	
		6	"	$48\frac{1}{8}$	
		13	"	$47\frac{5}{8}$	
Apl.	1	3	"	$48\frac{1}{8}$	
	2	30	"	"	
		——			
		330	"		

85 **RESPONDENT'S EXHIBIT No. 2.**

W. H. D. L., Spl. Ex'r.

NEW BONDS.

Series White Bonds, Black Letter D, Funding Bonds, Act 1866, six per cent., mature January, 1892, Nos. 1 to 4941.

86

7 98 141 142 145 148 150 199 239 452
463 471 496 522 535 640 715 813 1212 1234
1235 1236 1237 1297 1406 1449 1464 1542 1663 2010
2041 2078 2079 2119 2199 2215 2319 2351 2511 2540
2666 2718 2843 2901 2933 2970 3010 3012 3027 3028
3029 3030 3031 3034 3035 3036 3037 3388 3401 3684
3836 3839 3939 4093 4294 4311 4384 4508 4707 4827 3339

87

FUNDED COUPONS.

Law identical, same as original.

OLD BONDS.

White Bonds, Black Letter B, issued under Act 1851-2. Nos. 1 to 7908 due in 1892, 7909 to 11806 due in 1898.

68 East Tenn. & Virginia.
88 719 Memphis & Charleston.
1250 East Tenn. & Georgia.
2198 Memphis & Ohio.
2482 do.
2593 McMinnville & Manchester.
2846 do.
2849 do.
2850 do,

2901 Memphis & Ohio. 89
2905 do.
3277 do.
3515 Memphis & Charleston.
3663 Mississippi Central & Tenn.
3836 do. do.
4237 Memphis & Charleston.
5292 Edgefield & Kentucky & L. & N. R. R.
5742 Mobile & Ohio.
6557 Louisville & Nashville.
6620 do. do. 90
6672 do. do.
7518 Winchester & Alabama.
7584 Memphis & Ohio.
7683 do.
7801 Central Southern.
8156 Edgefield & Kentucky & L. & N. R. R.
8390 Memphis & Ohio.
8643 do.
9118 Memphis, Clarksville & Louisville.
9152 Memphis & Ohio. 91
9518 Rogersville & Jefferson.
9573 Memphis, Clarksville & Louisville.
10084 Edgefield & Kentucky.
10762 Nashville & Chattanooga.
10828 Edgefield & Kentucky.
10932 Memphis, Clarksville & Louisville.
11420 Nashville & Northwestern.
11522 do.
11534 do.

92 White Bonds, Series C, Black Letter, six per cent., due in 1898, issued under Act 1851-2.

86 Nashville & Northwestern.
1874 Mobile & Ohio.

93

MEMORANDUM TENNESSEE BONDS—NEW BONDS.

Series Green Bonds, no letter, six per cent., issued under Act 1851 and 2, and Amds. to, Nos. 1 to 8470 due 1892, Nos. 8471 to 10000, due in 1900.

	960	Memphis, Clarksville & Louisville R. R.
	599	McMinnville & Manchester R. R.
	600	Do.
	207	Nashville & No, Western.
94	847	Memphis, Clarksville & L. R. R.
	848	do.
	849	do.
	1326	Edgefield & Kentucky R. R.
	1329	do.
	1507	East Tenn. & Virginia.
	1511	do.
	1959	Mississippi & Tenn.
	2363	Nashville & Northwestern.
	2391	do.
95	3132	Edgefield & Kentucky.
	3133	do.
	2643	Rogerville & Jefferson.
	2644	do.
	3348	McMinnville & Manchester.
	3733	Nashville & Northwestern.
	3689	Winchester & Alabama.
	3536	do.
	4078	do.
	4147	Nashville & Northwestern.
96	4288	Cin., Cumberland Gap & Charleston.
	4530	Knoxville & Kentucky.
	4861	East Tennessee & Georgia.
	4866	do.
	5014	Cin., Cumberland Gap & Charleston.
	5023	do.
		$4,066.
	5025	do.

5026 Cin., Cumberland Gap & Charleston. 97
5031 do.
5089 do.
5099 do.
5169 Miss. & Tenn. Road.
5340 Memphis & Ohio.
5455 do.
5637 Nashville & Northwestern.
6018 Renewal.
6081 East Tenn. & Virginia Rd.
6107 do. 98
6161 do.
6362 Knoxville & Kentucky.
6628 do.
6662 do.
6670 do.
7109 do.
7417 Knoxville & Charleston.
7505 do.
7667 Winchester & Alabama.
7958 Cin., Cumberland & Charleston. 99
8228 Nashville & Northwestern.
8328 Renewal.
8336 do.
8635 do.
8981 Knoxville & Charleston Rd.
9107 Cin., Cumberland Gap & Charleston.
9810 East Tenn. & West No. Carolina R. R.

Series Green Bonds, letter B, 6 per cent., mature 1900. 100

12 Miss. Central.
18 do.
152 Nashville & Northwestern.
183 do.
185 do.
246 Miss. Central.

101	318	Evansville, Hendersonville & Nashville.
	711	Edgefield & Kentucky.
	752	Miss. & Tenn. Road.
	1286	Knoxville & Kentucky.
	1403	" & Charleston.
	1446	" "
	1447	" "
	1448	" "
	1449	" "
	1450	" "
102	1452	" "
	1499	Edgefield & Kentucky.
	1725	Cin. & Cumberland Gap.
	1726	Cin. & Cumberland Gap.
	1746	Cin. & Cumberland Gap.
	2006	Winchester & Alabama.
	2204	Knoxville & Kentucky.
	2316	do.
	2431	do.
	2434	do.
103	2464	do.
	2683	East Tenn. & West North Carolina R. R.
	2717	Cin., Cumberland Gap & Charleston.
	2603	East Tenn. & W. No. C.
	2605	do.
	2746	Cin., Cumberland Gap & Charleston.
	2826	Southern.
	3222	Nashville & Northwestern.
	3357	do.
	3381	do.
104	3465	do.
	3435	do.
	3672	Memphis & Charleston.
	3673	do.
	3866	do.
	4725	Tenn. & Pacific R. R.

Series Green Bonds, Letter C, 6 per cent., mature in 1900. 105

494
660 } To Comptroller.
725

RESPONDENT'S EXHIBIT NO. 3.—W. H. D. L., Sp'l. Ex'r. 106

TO THE COMMITTEE OF TENNESSEE BONDHOLDERS:

I hereby assent to the plan and conditions of the committee's circular of May 17th, 1879.

LIST OF BONDS.

COLOR.	LETTER.	NUMBERS.

107

108

109 RESPONDENT'S EXHIBIT NO. 4.—W. H. D. L., Sp'l. Ex'r.

OFFICE OF COMMITTEE OF
TENNESSEE BONDHOLDERS,
No. 31 Nassau Street.

P. O. Box 936. NEW YORK, May 17, 1879.

To the Holders of Tennessee Bonds:

In our last circular we informed you that the com-
mittee was considering the best means for enforcing
110 our first mortgage liens against the railroads in Tennessee.
After full deliberation, with advice of counsel, and with the approval of the following prominent houses interested: Brown Brothers & Co., Maitland, Phelps & Co., Ward, Campbell & Co.; and of the Presidents of the Seaman's Savings Bank, and the Globe Mutual Life Insurance Co. of New York; and of large individual holders in New York, Baltimore, Philadelphia and Chicago, we have decided to adopt the suits lately instituted by
111 Mr. C. Amory Stevens. Prompt action on the part of the bondholders will enable us to bring these suits to trial during the ensuing summer.

It may be well for us to give some of the considerations that make us confident of a successful enforcement of the lien conferred on our bonds by the distinct language of the Tennessee Statutes. While Tennessee bonds of the new issue were being offered for sale in behalf of the railroads of the State, S. Watson, "agent for the State of Tennes-
112 see," addressed the following argument to the public, which was printed in pamphlet form in 1868:

"The important question for the bondholder now "is, What security have I for the payment of the "principal and interest of my bond? The State "debt proper is only about four millions. The "railroads and all their rolling stock are mortgaged "to the State to secure the *payment of bonds*

" *loaned.* This mortgage, as bondholders must 113
" know, enures to their benefit. For the payment
" of twenty-nine million bonds, which will be the
" entire amount of bonds issued to the roads, in-
" cluding those that may be issued under the recent
" Act of the Legislature, *the bondholders have*
" *as security* roads which, when completed, will be
" nearly two thousand miles in length, and which
" will be worth fully seventy million dollars. In
" addition to that, they have the whole resources
" of the State solemnly pledged to them." 114

Again, in 1868, when the Legislature of Tennes-
see sought to impair our securities, Gov. Brownlow,
then chief executive, sent a message to that body
remonstrating against the proposed measures in the
following emphatic language:

" The State, in point of honor and fact, holds the
" lien in a fiduciary capacity. She holds it *in trust*
" for the benefit of the bondholders. She honor-
" ably has no right to abandon it or surrender it to
" the companies. She ought not to prove faithless 115
" in this *trust*, but maintain and execute it as the
" bondholders understood it and as the people of
" the State understood it. The bondholders are in-
" terested in these resources to pay the bonds they
" hold, and the people are interested in them to see
" that they are not to be taxed to pay interest or
" principal of bonds for which the railroads are
" pledged by the terms of the law."

The assurance of our rightful legal claims against
the railroads is strongly fortified by the following 116
facts:

In April, 1878, the committee addressed a circu-
lar to the bondholders notifying them that it was
about to enforce this lien. We petitioned to be
heard in the Mobile and Ohio case then pending on
appeal before the Supreme Court of the United
States. In that suit the question whether or not

117 the holders of Tennessee bonds had a first mortgage
lien upon railroads in that State, was clearly pre-
sented. The cause was fully argued by several
counsel for the railroad company as well as by our
counsel, and the Court took the case under advise-
ment. Some time after, while we were confidently
awaiting a decision in our favor, we were surprised
to learn that the railroad company had settled the
case with the party to the record in that suit—that
stipulations had been filed in the office of the Clerk
118 of the Supreme Court—that copies had been sent to
the several Judges of the Supreme Court—and, in
short, that everything had been done by the rail-
road officials which it was possible to do to forestall
a decision in the case. As we were not actual par-
ties to that cause, we could not control the matter
in any way so as to prevent a settlement. But,
surely, we could not require any stronger evidence
that the railroad companies were convinced of their
own defeat. Otherwise they would have gladly
119 welcomed a decision which would have relieved
their property from the burden of this lien, and
would have done everything in their power to have
secured a final adjudication in their favor instead of
preventing a decision.

We call your special attention to the accompany-
ing opinion of Mr. Charles O'Conor. It was given
under a deep sense of moral responsibility in course
of advice sought by a bondholder to enable him to de-
termine whether or not to embark in a litigation
120 against the railroads. A letter signed by Messrs.
Evarts, Southmayd & Choate, in which it is stated
that they have not time to prepare an opinion
against us, has been circulated in the interest of
the railroads. That letter bases its conclusions on
the Minnesota case, which, we are informed by Mr.
O'Conor, bears in our favor so far as it is at all ap-
plicable to the Tennessee case. It is sufficient to

add that Mr. Southmayd, of the above firm, urged, before the Supreme Court, that same decision in the Minnesota case as a precedent in favor of his clients; but the effect was not convincing enough to induce those clients to refrain from a settlement of the case as before stated. 121

We append a list of roads on which Tennessee State bonds are first mortgage liens, and the amount of bonds outstanding against each road.

East Tennessee, Virginia & Georgia Railroad, leased lines and branches: 122

East Tennessee & Georgia Railroad	$614,000	
East Tennessee & Virginia Railroad	1,218,000	
Memphis & Charleston Railroad	830,000	
Cincinnati, Cumberland Gap & Charleston Railroad	350,000	
East Tennessee & Western North Carolina Railroad	34,000	
Total	$3,036,000	123

Louisville & Nashville Railroad Company, and purchased and leased lines:

Main Line	$ 298,000	
Memphis, Clarksville & Louisville Railroad	791,000	
Memphis & Ohio Railroad	1,176,000	
Tenn. & Ala. R. R., Nash. & D.R.R.,	468,000	
Cent. Southern R. R., Nash. & D.R.R.,	362,000	124
St. Louis & South-Eastern Railroad Company, on account of Edgefield & Kentucky Railroad	645,000	
Total	$3,740,000	

125 Nashville, Chattanooga & St. Louis Lines:

Nashville & Chattanooga	$ 114,000
Nashville & North-Western	1,385,000
Winchester & Alabama	457,000
McMinnville & Manchester	356,000
Total	$2,312,000
Mobile & Ohio Railroad	953,000
126 New Orleans, St. Louis & Chicago Railroad on account Mississippi Central and Tennessee Railroad	480,000
Knoxville & Ohio Railroad Company on account of Knoxville & Kentucky Railroad	514,000
The above amounts and some issues to smaller roads make an aggregate of railroad issues made by the State of Tennessee, and which are still outstanding	11,647,000
127 On which there is accrued 23 per cent. interest	2,678,810
Total due	$14,325,710

Bondholders will please note that "New" bonds, issued to Tennessee railroads, and "Funding Series" bonds, not included in the above list, issued in payment of interest which accrued on railroad bonds under the Funding Acts of 1866, 1868 and 1873, are also statutory liens upon the railroads.

128 The members of the committee are owners to a large amount of bonds that are not liens on the railroads, which they do not propose to fund into the 50 and 4 per cent. bonds offered. They believe that the enforcement of the railroad liens will bring about a much better settlement than is now proposed. It is our duty to inform you that the legality of the proposed issue of the new 4 per cent. com-

promise bonds is already questioned in Tennessee, for want of sufficient acceptances to authorize the submission of the proposed settlement to popular vote, as required by the Act of the last General Assembly.

Holders of North Carolina State bonds, issued in aid of the North Carolina Railroad Company, will recollect how that State made an unsuccessful attempt to deprive such bondholders of the lien originally intended for their security. A like attempt in the State of Indiana, in the case of the Wabash and Erie Canal, was also unsuccessful, and the lien decided in favor of the bondholders.

Bondholders wishing to secure the benefits resulting from this litigation can do so on the following conditions, to wit: by depositing with the committee five dollars per lien bond in cash, and one past due coupon from each bond of that description. This will be required to defray the necessary costs and expenses of the litigation. In no event will the bondholders be called upon for any further assessment, nor do they incur any personal liability by uniting in this plan. Should any surplus funds remain in the hands of the committee after all expenditures have been provided for the same will be returned to bondholders *pro rata*. Those who do not comply with the aforesaid conditions will be excluded from the benefits derived from the action of the committee. A certificate will be issued to each assenting bond, entitling it to any and all advantages resulting from these legal proceedings, and specifying the railroad company bound for the payment of the bond. An arrangement for calling these certificated bonds for dealings in them on the New York Stock Exchange will be made.

When it is considered that the enforcement of

133 these liens should make the great mass of the internal improvement bonds worth par and accrued interest, or 123 per cent., the advisability of the course which we have adopted cannot be reasonably doubted. Your signature to the enclosed assent, stating color, number and serial letter of each of your bonds is requested before June 10th. Upon receipt by the committee of the assents of a sufficient number of bonds, the holders will be notified of the issue of the certificates to be attached to the lien bonds. We
134 propose to engage as counsel Chas. O'Conor and E. L. Andrews, of New York, and George Hoadly, of Cincinnati. to be assisted by competent counsel at Memphis, Nashville, Knoxville and Louisville.

Committee of Tennessee Bondholders.

EUGENE KELLY,
Of Eugene Kelly & Co.
JOHN T. TERRY,
Of E. D. Morgan & Co.
135 JAS. G. K. DUER,
Of James G. King's Sons.
PETER GEDDES,
Of Geddes & Smith.
R. S. MORAN,
Of 107 East 29th St., N. Y.

C. Amory Stevens,
Treasurer.
Thomas G. Robinson,
136 *Secretary.*

1

IN THE UNITED STATES CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE.

IN THE CASE OF 2

CALVIN AMORY STEVENS, *et al.*, on
behalf of the holders of Internal
Improvement Bonds of Tennessee,
issued to the WINCHESTER and
ALABAMA RAILROAD COMPANY,

versus

THE NASHVILLE, CHATTANOOGA and 3
ST. LOUIS RAILWAY, *et al.*

I hereby certify that there were produced before me during the taking of the deposition of John T. Terry in this cause, one Tennessee Bond, being for the principal sum of one thousand dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof.

A true and exact copy of said bond is as follows: 4

5 **Complainants' Exhibit No. 1.**

W. H. D. L.,
Spl. Exr.

M. UNITED STATES OF AMERICA. M.

No. 7,518.

STATE OF TENNESSEE.

Know all men by these presents, that the State of
6 Tennessee acknowledges to owe to
or order, one thousand dollars, lawful money of the United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1892, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued
7 in pursuance and under the provisions of an Act of the General Assembly of said State, passed at its Session of 1851-2.

In witness whereof I, Isham G. Harris, Governor of said State, have hereunto signed my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be
8 hereto affixed, at Nashville, this 1st day of January, 1858.

ISHAM G. HARRIS,
Governor.

J. E. R. RAY,
Secretary of State.

$1,000. $1,000. 9

Said bond has thirty-two coupons attached.

The last coupon attached to each of said bonds being the coupon first falling due, is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay the bearer thirty dollars, in the City of New York, 10 on the first day of July, 1876, being the semi-annual interest then falling due on bond No. 7,518.

J. T. DUNLAP,
Comptroller.

There are seven overdue coupons upon bond No. 7,518, the first coupon thereof having fallen due on the 1st day of July, 1876. The other six of said coupons fall due at intervals of six months from 11 the date of the coupon above mentioned.

All the aforesaid bonds, with the coupons attached thereto, were left by the witness, John T. Terry, for inspection by me, and the solicitor for the respondents then and there present, and were inspected by me and by him.

There are endorsements on bond No. 7,518.

"Registered under 9th section of Funding Act, approved March 17th, 1873.

JOHN C. BURCH, 12
Comptroller.
CHAS. N. GIBBS,
Secretary of State.

Audited January 26, 1874."

WILLIAM H. DELANCEY,
Special Examiner.

IN THE UNITED STATES CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE.

IN THE CASE OF

CALVIN AMORY STEVENS *et al.*, on behalf of the Holders of Internal Improvement Bonds, of Tennessee, issued to the WINCHESTER and ALABAMA RAILROAD COMPANY,

versus

THE NASHVILLE, CHATTANOOGA and ST. LOUIS RAILWAY *et al.*

I hereby certify that there was produced before me during the taking of the deposition of John T. Terry, in this cause five (5) Tennessee Bonds, each bond being for the principal sum of one thousand dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows:

5 **Complainant's Exhibit No. 2.**

W. H. D, L.,
Spl. Exr.

1,000. UNITED STATES OF AMERICA. 1,000.

No. 2,006. B. No. 2,006.

Know all men by these presents, that the State of Tennessee acknowledges to owe to
or order, one thousand dollars of the lawful money
6 of the United States of America, which the said State promises to pay in the city of New York, on the 1st day of January, 1900, with the interest thereon at the rate of six per centum per annum, according to the tenor, and upon the presentation of the coupons hereunto attached. For the payment of said sum of money and the interest thereon at the times and place and in the manner aforesaid the faith of the State of Tennessee, is irrevocably pledged; this bond being issued in pursuance and by authority of
7 an Act of the General Assembly of said State, passed February the 11th, 1852, "to establish a system of Internal Improvements in said State," and the acts of said General Assembly amendatory thereof, and the act of December 7th, 1867.

In testimony whereof, and in pursuance of the Act aforesaid, I, W. G. Brownlow, Governor of the State of Tennessee, have hereunto subscribed my name officially, and caused the
8 same to be countersigned by the Secretary of State, and the Great Seal of the State affixed. Done at the Executive Department in the city of Nashville, this 1st day of January, 1868.

W. G. BROWNLOW,
Governor.

A. J. FLETCHER,
Secretary of State.

(Color—Green.) 9

The other five (5) of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 3536, 3689, 4078, 7667.

All of said bonds are dated on the 1st day of January, 1866, except numbers 7667, which is dated on the 1st day of January, 1867.

All the aforenamed bonds are signed.

W. G. BROWNLOW, 10
Governor.
A. J. FLETCHER,
Secretary of State.

Said bonds having forty-eight coupons attached to No. 2006.

The last coupon attached to each of said bonds being the coupon first falling due is, in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30. 11

The Treasurer of the State of Tennessee will pay the bearer thirty dollars, in the city of New York, on the first day of July, 1876, being the semi-annual interest then falling due on Bond No. 2,006.

G. W. BLACKBURN,
Comptroller.

All the coupons attached to bonds numbered 3536, 3689, 4078, 7667, are signed.

S. W. CUTCHELL, 12
Comptroller.

There are seven overdue coupons upon each of the afore-numbered bonds; the first coupon thereof having fallen due on the 1st day of July, 1876. The other six of said coupons fall due at intervals of six months from the date of the coupon above mentioned.

13 All the aforesaid bonds, with the coupons attached thereto, were left by the witness, John T. Terry, for inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

There are indorsements on said bonds are as follows:

On bond No 2,006. Registered under 9th Section of Funding Act, approved March 17, 1873.

14 JOHN C. BURCH,
Comptroller.
CHAS. N. GIBBS,
Secretary of State.

Audited January 26, 1874.
On bond No. 3536, " " "
" 3689, " " "
" 4078, " " "
" 7667, " " "

15 WILLIAM H. DeLANCEY,
Special Examiner.

16

IN THE UNITED STATES CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE. 1

IN THE CASE OF

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement bonds of Tennessee, issued to the **Nashville and North-Western Railroad Company**,

versus 2

The Nashville, Chattanooga and St. Louis Railway, *et al.*,

I do hereby certify that there were produced before me during the taking of the deposition of John T. Terry in this cause, fifteen (15) Tennessee bonds, each bond being for the principal sum of one thousand dollars, and bearing the impression of the 3
Great Seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows:

4

5 **Complainants' Exhibit No. 2.**

W. H. D. L.
Spl. Exr.

$1,000. $1,000.

UNITED STATES OF AMERICA.

No. 207.

Know all men by these presents, that the State of Tennessee acknowledges to owe to or order, one thousand dollars of the lawful money of the 6 United States of America, which the said State promises to pay in the City of New York, on the 1st day of January, 1892, with the interest thereon at the rate of six per centum per annum, according to the tenor and upon the presentation of the coupons hereunto attached. For the payment of said sum of money and the interest thereon, at times and place and in the manner aforesaid, the faith of the State of Tennessee is irrevocably pledged; this bond 7 being issued in pursuance and by authority of an Act of the General Assembly of said State, passed February the 11th, 1852, "To establish a system of Internal Improvements in said State," and the Acts of said General Assembly amendatory thereof.

In testimony whereof and in pursuance of the Act aforesaid I, W. G. Brownlow, Governor of said State, have hereunto signed my name and caused the same to be counter- 8 signed by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 1st day of January, 1866.

W. G. BROWLOW,
Governor,
A. J. FLETCHER,
Secretary of State.

(Color green.) 9

The other fourteen (14) of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 2,363, 2,391, 3,733, 4,147, 5,637, 8,228, and the following numbers are lettered B, viz: 152, 183, 185, 3,222, 3,357, 3,381, 3,435, 3,465.

All of said bonds are dated on the first day of January, 1866, except number 8,228, which is dated 1st day of January, 1867, and numbers 152, 183, 10
185, 3,222, 3,357, 3,381, 3,435, 3,465, which are dated on the 1st day of January, 1868.

Each of the afore-numbered bonds are signed:

W. G. BROWNLOW,
Governor.
A. J. FLETCHER,
Secretary of State.

Said bonds having thirty-two (32) coupons attached to each of said bonds, except numbers 8,228, 11
152, 183, 185, 3,222, 3,357, 3,381, 3,435, 3,465, to each of which forty-eight (48) coupons are attached.

The last coupon attached to each of said bonds being the coupon first falling due is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30. 12

The Treasurer of the State of Tennessee will pay the bearer Thirty Dollars, in the City of New York, on the 1st day of July, 1876, being the semi-annual interest then falling due on bond No. 207.

S. M. CUTCHELL,
Comptroller.

(Color green.) 9

The other fourteen (14) of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 2,363, 2,391, 3,733, 4,147, 5,637, 8,228, and the following numbers are lettered B, viz: 152, 183, 185, 3,222, 3,357, 3,381, 3,435, 3,465.

All of said bonds are dated on the first day of
January, 1866, except number 8,228, which is dated
1st day of January, 1867, and numbers 152, 183, 10
185, 3,222, 3,357, 3,381, 3,435, 3,465, which are dated
on the 1st day of January, 1868.

Each of the afore-numbered bonds are signed:

W. G. BROWNLOW,
Governor.
A. J. FLETCHER,
Secretary of State.

Said bonds having thirty-two (32) coupons at-
tached to each of said bonds, except numbers 8,228, 11
152, 183, 185, 3,222, 3,357, 3,381, 3,435, 3,465, to
each of which forty-eight (48) coupons are attached.

The last coupon attached to each of said bonds being the coupon first falling due is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30. 12

The Treasurer of the State of Tennessee will pay the bearer Thirty Dollars, in the City of New York, on the 1st day of July, 1876, being the semi-annual interest then falling due on bond No. 207.

S. M. CUTCHELL,
Comptroller.

13 All the coupons attached to bonds numbered 152, 183, 185, 3,222, 3,357, 3,381, 3,435, 3,465, are signed by

G. W. BLACKBURN,
Comptroller.

There are seven overdue coupons upon each of the above numbered bonds, the first coupon thereof having fallen due on the 1st day of July, 1876. The other of said coupons fall due at intervals of six months from the date of the coupon above mentioned.

14 All the aforesaid bonds, with the coupons attached thereto, were left by the witness, John T. Terry, for inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

The indorsements on said bonds are as follows: On Bond No. 207, registered under 9th section of Funding Act; approved March 17, 1873,

JNO. C. BURCH,
15 *Comptroller.*
CHAS N. GIBBS,
Secretary of State.

	On	Bond	No.	2,363	Audited	January	26,	1874.
	“	“	“	2,391				
	“	“	“	3,733				
	“	“	“	4,147				
	“	“	“	5,637				
	“	“	“	8,228	“	July	20,	“
16	“	“	“	152	“	May	25,	“
	“	“	“	183	“	May	26,	“
	“	“	“	185	“	January	26,	“
	“	“	“	3,222				
	“	“	“	3,357				
	“	“	“	3,381				
	“	“	“	3,435				
	“	“	“	3,465				

WILLIAM H. DE LANCEY,
Special Examiner.

1

IN THE UNITED STATES CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE,

IN THE CASE OF
CALVIN AMORY STEVENS, *et. al.*, on behalf of the Holders of Internal Improvement Bonds of Tennessee, issued to the NASHVILLE & NORTH WESTERN RAILROAD COMPANY, 2

versus

THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY, *et al.* 3

I hereby certify that there were produced before me during the taking of the deposition of John T. Terry in this cause, four (4) Tennessee Bonds, each bond being for the principal sum of One Thousand Dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as 4
follows:

5 **Complainants' Exhibit No. 1.**

W. H. De L.,
Spl. Exr.

M. UNITED STATES OF AMERICA. M.

No. 86. C.

STATE OF TENNESSEE.

Know all men by these presents, that the State of Tennessee acknowledges to owe to
or order, One Thousand Dollars, lawful money of the United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1898, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursu-
7 ance and under the provisions of an Act of the General Assembly of said State, passed at its Session of 1851-52, and Acts amendatory thereto.

In Witness whereof I, Isham G. Harris, Governor of said State, have hereunto signed my name, and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 1st day
8 of January, 1860.

ISHAM G. HARRIS,
Governor.

J. E. R. RAY,
Secretary of State.

$1,000. $1,000. 9

The other three (3) of said bonds are of like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 11420, 11522, 11534.

All of said bonds are dated on the 1st day of January, 1860, and are signed

ISAAM G. HARRIS,
Governor.

J. E. R. RAY, 10
Secretary of State.

Said bonds having forty-four coupons attached to each bond.

The last coupon attached to each of said bonds being the coupon first falling due, is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30. 11

The Treasurer of the State of Tennessee will pay the bearer Thirty Dollars, in the City of New York, on the first day of July, 1876, being the semi-annual interest then falling due on bond No. 86.

J. T. DUNLAP,
Comptroller.

There are seven overdue coupons upon each of the above numbered bonds, the first coupon thereof having fallen due on the 1st day of July, 1876. The other of said coupons fall due at intervals of six months from the date of the coupon above mentioned. 12

All the aforesaid bonds with the coupons attached thereto, were left by the witness, John T. Terry, for inspection by me, and the solicitor for the respondents then and there present, and were inspected by me and by him.

13 There are endorsements on each of said bonds as follows:

"Registered under 9th section of funding Act, approved March 17, 1873.

JNO. C. BURCH,
Comptroller.
CHAS. M. GIBBS,
Secretary of State."

Audited January 26, 1874.

14 WILLIAM H. DELANCY,
Special Examiner.

15

16

IN THE UNITED STATES CIRCUIT COURT, 1

FOR THE MIDDLE DISTRICT OF TENNESSEE.

IN THE CASE OF

Calvin Amory Stevens, *et al.*, on behalf of the holdersof Internal Improvement Bonds, of Tennessee, issued to the Nashville & Chattanooga Railroad Company, 2

versus

The Nashville, Chattanooga & St. Louis Railway, *et al.*

I hereby certify that there was produced before me during the taking of the deposition of John T. Terry in this cause one (1) Tennessee Bond, being for the principal sum of one thousand dollars, and 3 bearing the impression of the great seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows:

4

5 **Complainants' Exhibit No. 1.**

W. H. D. L.,—*Spl. Ex'r.*

M UNITED STATES OF AMERICA. M

No. 10762.

STATE OF TENNESSEE.

Know all men by these presents, that the State of Tennessee acknowledges to owe to or order, one thousand dollars, lawful money of the
6 United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1898, with interest at the rate of six per cent. per annum, payable semi annually, according to the tenor, and upon the presentation of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an Act of the General Assembly of said State, passed at its
7 Session of 1851–2.

In witness whereof I, Isham G. Harris, Governor of said State, have hereunto signed my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 1st day of January, 1860.

8 ISHAM G. HARRIS,
Governor.

J. E. R. RAY,
Secretary of State.

$1,000. $1,000. 9

Said bond having forty-four coupons attached.

The last coupon attached to each of said bonds being the coupon first falling due is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay the bearer thirty dollars, in the City of New York, on the first day of July, 1876, being the semi-annual 10
interest then falling due on bond No. 10762.

J. T. DUNLAP.
Comptroller.

There are seven overdue coupons upon said bond, the first coupon thereof having fallen due on the 1st day of July, 1876. The other of said coupons fall due at intervals of six months from the date of the coupon above mentioned.

All the aforesaid bonds with the coupons attached 11
thereto, were left by the witness, John T. Terry, for inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

The endorsements on said bonds are as follows:

Registered under 9th section of funding act, approved March 17, 1873.

JNO. C. BURCH.
Comptroller.
CHAS. N. GIBBS. 12
Secretary of State.

Audited January 26, 1874.

WILLIAM H. DE LANCEY.
Special Examiner.

IN THE UNITED STATES CIRCUIT COURT, 1

FOR THE MIDDLE DISTRICT OF TENNESSEE.

IN THE CASE OF

CALVIN AMORY STEVENS, *et al.*,
on behalf of the holders of International Improvement Bonds of
Tennessee, issued to the McMINNVILLE AND MANCHESTER RAILROAD 2
COMPANY,

versus

THE NASHVILLE, CHATTANOOGA AND
ST. LOUIS RAILWAY, *et al.*

I hereby certify that there were produced before me during the taking of the deposition of John T. Terry in this cause, four (4) Tennessee Bonds, each 3 bond being for the principal sum of One Thousand Dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows:

4

5 **Complainants' Exhibit No. 1.**

W. H. D. L.,
Spl. Exr.

M. UNITED STATES OF AMERICA. M.

No. 2593. B.

STATE OF TENNESSEE.

Know all men by these presents, that the State of
6 Tennessee acknowledges to owe to or
order, One Thousand Dollars, lawful money of the United States, which sum the said State promises to pay in the City of New York, on the 1st day of January, 1892, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor, and upon the presentation of the coupons thereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued
7 in pursuance and under the provisions of an Act of the General Assembly of said State, passed at its Session of 1851-2.

In Witness whereof, I Andrew Johnson, Governor of said State, have hereunto signed my name, and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto
8 affixed, at Nashville, this 1st day of January, 1855.

ANDREW JOHNSON,
Governor,
W. B. A. RANNEY,
Secretary of State.

$1,000. $1,000.

The other three (3) of said bonds are of like tenor 9
in all respect with the foregoing, except that they differ in their numbers, being numbered as follows: 2,846, 2,849, 2,850.

All of said bonds are dated on the 1st day of January, 1855, and are signed.

ANDREW JOHNSON,
Governor,
W. B. A. RANNEY,
Secretary of State.

10
Said bonds having thirty-two (32) coupons attached to each bond.

The last coupon attached to each of said bonds being the coupon first falling due is in all respects, except as hereinafter stated, similar, and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay
the bearer Thirty Dollars, in the City of New York,
on the first day of July, 1876, being the semi-annual 11
interest then falling due on bond NO. 2,593.

ARTH. R. CROZIER,
Comptroller.

There are seven overdue coupons upon each of the afore-numbered bonds, the first coupon thereof having fallen due on the 1st day of July, 1876. The other six of said coupons fall due at intervals of six months from the date of the coupon above mentioned.

12
All the aforesaid bonds, with the coupons attached thereto, were left by the witness, John T. Terry for inspection by me, and the solicitor for the respondents then and there present, and were inspected by me and by him.

13 There are endorsements on said bonds as follows: on Bond No. 2,593, registered under 9th section of funding act, approved March 17th, 1873.

JOHN C. BURCH,
Comptroller,
CHAS. N. GIBBS,
Secretary of State.

And on each of Bonds Nos. 2846, } Audited Jan. 26, 1874.
14 2849, 2850, } " May 25, "

And on Bonds, Nos. 2846, 2849, 2850. "State of Wisconsin, the within bond has been assigned to the State Treasurer as Banking Security. Bank Comptroller's office.

Madison, August 19th, 1856.

WILLIAM M. DENNIS,
Comptroller."

"Release without recourse in any event to
15 SAM'L D. HASTINGS."

Madison, July 1st, 1860.

Witness:
R. Mowzer,
O. G. Scofield."

"State of Wisconsin, }
Dane County. } ss.:

Personally appeared before me, a Notary Public in and for the county of Dane, and State of Wisconsin, the above, named Samuel D. Hastings, known
16 to me to be the person who executed and acknowledged the above release."

July 1st, 1861.

O. G. SCOFIELD,
Notary Public,
Wis.

William H. DeLancey,
Special Examiner.

IN THE UNITED STATES CIRCUIT COURT, 1

FOR THE MIDDLE DISTRICT OF TENNESSEE.

IN THE CASE OF
CALVIN AMORY STEVENS, *et al.*, on behalf of the holders of Internal Improvement Bonds, of Tennessee, issued to the McMINNVILLE & MANCHESTER RAILROAD COMPANY 2

versus

The NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY *et al.*

I hereby certify that there were produced before me during the taking of the deposition of John T. Terry in this cause three (3) Tennessee Bonds, each 3 bond being for the principal sum of One Thousand Dollars, and bearing the impression of the Great Seal of the State of Tennessee on the face thereof.

A true and exact copy of one said bonds is as follows:

4

5 **Complainant's Exhibit No. 2,**

W. H. De L.,
Sp'l Ex'r.

1,000. UNITED STATES OF AMERICA. 1,000.

No. 599.

Know all men by these presents, that the State of Tennesee acknowledges to owe to or order, One Thousand Dollars of the lawful money 6 of the United States of America, which the said State promises to pay in the City of New York, on the 1st day of January, 1892 with the interest thereon, at the rate of six per centum per annum, according to the tenor, and upon the presentation of the coupons hereunto attached. For the payment of said sum of money and the interest thereon at the time and place and in the manner aforesaid, the faith of the State of Tennesee is irrevocably pledged; this bond being issued in pursuance and by authority 7 of an Act of the General Assembly of said State, passed Feburary the 11th, of 1852, "to establish a system of Internal Improvements in said State and the acts of said General Assembly thereof.

In testimony whereof and in pursuance of the act aforesaid, I, W. G. Brownlow, Governor of the said State, have hereunto signed my my name and caused the same to 8 be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 1st day of January, 1866.

W. G. BROWNLOW,
Governor.
A. J. FLETCHER,
Secretary of State.

(Color-green.) 9

The other two of said bonds are of a like tenor in all respects with the foregoing, except that they differ in their numbers, being numbered as follows: 600–3,348.

All of said bonds are dated on the 1st day of January, 1866, and are signed

W. G. BROWNLOW,
Governor.
A. G. FLETCHER,
Secretary of State. 10

Said bonds having thirty-two coupons attached to each bond.

The last coupon attached to each of said bonds being the coupon first falling due is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay 11 the Thirty Dollars, in the City of New York, on the first day of July, 1876, being the semi-annual interest then falling do on bond No.

S. M. CUTCHETT,
Comptroller.

There are seven overdue coupons upon each of the afore-numbered bonds, the first coupon thereof having fallen due on the first day of July, 1876. The other six of said coupons fall due at intervals of six 12 months from the date of the coupon above mentioned.

All the aforesaid bonds with the coupons attached thereto, were left by the witness, John T. Terry, for inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

The indorsements on the said bonds are as follows: on bonds No. 599, 600, 3,348.

"Registered under 9th Section of funding act. Approved March 17, 1873.

JNO. C. BURCH,
Comproller.
CHAS. N. GIBBS,
Secretary of State."

Audited, January 26, 1874.

WILLIAM H. DE LANCEY,
Special Examiner.

DEPOSITION OF PETER GEDDES.

UNITED STATES CIRCUIT COURT, 1

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS, *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis & Charleston Railroad Company

vs. 2

THE MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.*

Testimony and proofs for final hearing on the part of the complainants, taken before William H. DeLancey, Special Examiner, duly appointed under and pursuant to the 67th Rule in Equity, as 3 amended.

52 Broadway,
NEW YORK, Oct. 13, 1879.

Met pursuant to notice.

Present—Mr. ANDREWS, *for Compl'ts*,
Mr. HUMES, *for Resp'ts*.

[Deposition taken subject to all legal objections of both parties.] 4

PETER GEDDES, a witness produced on the part of the complainants, being first duly cautioned and sworn in the above-entitled suit to testify the truth,

5 the whole truth, and nothing but the truth, de-
poses and says:

Direct examination by **Mr. Andrews**:

1 Q. Are you one of the complainants in these causes?

A. I am.

2 Q. Are you an owner and holder of Tennessee bonds?

A. I am.

6 3 Q. Will you produce before the examiner Ten-
nessee bonds of which you are the owner and holder
for his inspection and that of respondents' counsel
here present?

A. I will.

(Witness produces 6 bonds of the State of Tennessee issued to, and sold by, the East Tennessee & Virginia R.R. Co.

Also 2 bonds of the State of Tennessee is-
7 sued to, and sold by, the East Tennessee &
Georgia R. R. Co.

Also 6 bonds of the State of Tennessee issued to, and sold by, the Memphis & Charleston R.R. Co.

Certificates of which last are hereto annexed and marked Complainant's Exhibit No. 1, "W. H. D. L., Spl. Exr.")

(Complainant's counsel offers in evidence
certified copies of the receipts given by the
8 R.R. Cos. to the State for bonds, and marked
Complainants' Exhibits, and are filed sepa-
rately under a stipulation of counsel.)

Direct examination closed.

Cross examination by **Mr. Humes**:

4 x Q. You have produced 14 bonds issued by

the State of Tennessee ; are these bonds your cwn 9
private property ?

A. They are.

5 x Q. When did you buy them ?

A. That I can't say.

6 x Q. Have you no idea as to the year in which you bought them ?

A. I think I have owned part of them since 1873. I think I have owned some of them since before past-due coupons were funded in 1874.

7 x Q. Did you fund those that you owned at the 10
time of the funding under the Act of 1873 ?

A. I funded no bonds, but funded the past-due coupons from the bonds I owned at that time.

8 x Q. How many bonds of the State of Tennessee did you own at that time ?

A. Twenty thousand.

9 x Q. Did you fund the coupons on them in person, or through an agent ; if so, then give the name of that agent ?

A. I funded the past due coupons from them in 11
person.

10 x Q. Did you also register the bonds at the time you funded the coupons ?

A. The bonds were audited and registered at that time.

11 x Q. How did you purchase the twenty thousand dollars of bonds above given ?

A. I purchased them on an order here in New York, sent from Chicago, where I was then living.

12 x Q. To whom was the order addressed ? 12

A. My impression is it was sent to Ward, Campbell & Co., who were brokers in New York then and now.

13 x Q. What did the order direct them to do ?

A. I suppose to buy Tennessee old bonds on my account.

13 14 x Q. Did you give them any particular directions as to what particular bonds to purchase ?

A. I think I directed them only to buy old bonds.

15 x Q. Did you limit the price ?

A. I fancy I did, but I don't recollect much about it.

16 x Q. At what time did you purchase them ?

A. I think it was after the passage of the funding Act of 1873, and before the funding of the past due coupons.

14 17 x Q. At what price did you buy them ?

A. Eighty per cent. of their par value.

18 x Q. When did you buy those of the bonds you have proved that you did not buy in 1873 ?

A. I may have bought all of these bonds in 1873 ; I can't tell now.

19 x Q. Have you not bought Tennessee bonds since 1873 ? If so, when ?

A. I have undoubtedly bought bonds since, but I
can't tell exactly when ; I bought perhaps in 1874–
15 5–6.

20 x Q. When did you first obtain the information by which you ascertained that six of the bonds proved were issued to the Memphis and Charleston Railroad, six to the East Tennessee and Virginia, and two to the East Tennessee and Georgia Railroads ?

A. The first information that I had of the issues
to the various railroads of Tennessee was derived
from a statement published by Comptroller Penne-
16 backer, of Tennessee, about 1870 ; as to when I first
ascertained as to these particular bonds proved I
cannot say.

21 x Q. Did you not ascertain it after you had purchased the bonds ?

A. Undoubtedly, yes, that is, after I purchased the first $20,000 ; as to the others I don't recollect.

22 x Q. Did you not buy those bonds which you

purchased in 1874–5–6 at open sale at the Board of 17
Brokers ?

A. They were undobtedly bought on orders from me; whether at the Board of Brokers or not I cannot say.

23 x Q. What did those orders call for ?

A. They may have called for old Tennessee bonds or new Tennessee bonds or new series.

24 x Q. In any instance did you ever know the numbers of the bonds until they were delivered to
you or your order ? 18

A. I may have known the numbers before I purchased them.

25 x Q. When you gave orders to buy did you specify particular numbers ?

A. In some instances the numbers were submitted to me before buying.

26 x Q. How about other instances ?

A. In others I bought them on orders without specifying numbers.

27 x Q. What did you specify in those orders. 19

A. What I desired to buy, either old bonds, new bonds or new series bonds, as I might wish to buy.

28 x Q. Do you own any other State of Tennessee bonds than those you have proved.

A. I do.

29 x Q. What amount ?

A. That I decline to answer.

30 x Q. Are they bonds issued for purely State purposes or loans to railroads ?

A. I believe all my bonds were issued to rail- 20
roads.

31 x Q. Have you not entered into an agreement with Calvin A. Stevens and others to prosecute these suits on terms set forth in that agreement, if yea, state those terms or produce the agreement ?

A. I have agreed with some others to prosecute

21 the suits, the terms of agreement I decline to give or to produce the agreement.

32 x Q. Did you not, on the 15th February, 1877, draw up with others, sign and forward to Gov. Porter, of Tennessee, the paper, a copy of which is now shown to you ?

A. That is my recollection.

(Paper offered and marked in evidence Respondents Exhibit No. 1. W. H. D. L., 22 Spl. E'x.)

33 x Q. Did you not write and forward the letter of Feb. 23d, 1877, here shown you ?

A. The penmanship is mine. The letter is from Geddes & Smith, and E. D. Morgan & Co. It was forwarded to Gov. Porter.

34 x Q. In whose handwritings are the signatures "Geddes & Smith," and "E. D. Morgan & Co.?"

A. "Geddes & Smith" is in my handwriting. 23 "E. D. Morgan and Co." I cannot say in whose.

35 x Q. Who procured E. D. Morgan & Co's. signature ?

A. That I can't say. I don't recollect whether I procured it or whether the letter was the joint work of Geddes & Smith, or E. D. Morgan & Co.

(Certified copy of the letter to Gov. Porter offered in evidence and marked "Respts. Exhibit, No. 2. W. H. D. L., Spl. Ex'r.)"

24

36 x Q. I now show you four letters dated respectively New York, August 1, August 23, August 27, August 29, 1877, signed P. Geddes, addressed to Hon. James L. Gaines, Nashville, Tennessee ; are they not all in your own handwriting, and did you not forward them by mail to Mr. Gaines, Comptroller of Tennessee ?

A. No, sir, not to Mr. Gaines, Comptroller of 25
Tennessee. The letter dated August 1, 1877, is addressed to Hon. James L. Gaines, Comptroller, Nashville, and marked "private." The letter dated August 23, 1877, is addressed to James L. Gaines, Comptroller; that of August 27, 1877, is addressed to Hon. James L. Gaines, Nashville, and marked "Private," and that of August 29, 1877, is addressed to Hon. James L. Gaines, Nashville. They are all in my handwriting and were forwarded.

26

[Certified copies are offered in evidence and marked "Respts. Exhibits 3, 4, 5, 6," respectively. W. H. D. L., Sp'l Ex'r.]

Cross-examination adjourned to 14th October, 3 P. M.

37 x Q. Did you not, while R. T. Wilson was negotiating for the purchase of State bonds in 1877 to pay off the Memphis & Charleston R. R. debt to
the State of Tennessee, urge him repeatedly to com- 27
plete the purchase of the bonds and finish this settlement with the State?

A I don't know that Mr. Wilson was negotiating for Tennessee bonds at that time for that purpose. I had several interviews with Mr. Wilson about the time that the extra session of the Legislature of Tennessee was called. Mr. Wilson professed to be very desirous that a compromise of the debt of Tennessee should be effected. I was also willing to
compromise with the State. At some of our inter- 28
views I may have suggested to Mr. Wilson that it would promote a compromise with the State of Tennessee if the Memphis & Charleston R. R. settled with the State, but I have no recollection of having urged him to make a settlement, on the contrary, refused to either sell or lend him bonds for that purpose.

29 38 x Q. Did not Mr. Wilson inform you at these interviews, or some of them, that he was then trying to obtain bonds of the State of Tennessee with which to make the settlement of said R. R. Co.'s debt to the State?

A. He probably did.

39 x Q. Did he not apply to you to buy or get $1,250,000 of the State bonds from you as agent for a Mr. Smith?

A. I think he did.

30 40 x Q. While the officers of the Mississippi Central road were negotiating for State bonds to settle the debt of that road to the State of Tennessee, did you not have personal interviews with Mr. Fish, Secretary of said Company, and speak approvingly of this settlement then in process of being made?

A. I have no recollection of anything of the sort.

41 x Q. Did you ever present any coupon attached to or from a bond of the State of Tennessee to any railroad company and demand payment of the
31 same?

A. I have never yet done so.

42 x Q. While the several railroads of Tennessee were purchasing bonds of the State with which to settle their debt to the State under the acts of 1869 and 1870, did you ever object, protest against, or oppose in any way said settlements. I include in this interrogatory those of the Memphis and Charleston, the Mississippi Central, and Mississippi and Tennessee railroad companies?

32 A. Not that I recollect of.

Re-direct examination by Mr. Andrews:

43 Q. State when, where and to what railroad officials of Tennessee you first expressed your assertion of the lien on the railroads belonging to Tennessee bonds?

A. I think first about 1872 or '73 to H. D. Newcomb, 33
President of the Louisville and Nashville R. R., in Louisville; I expressed the opinion that the Louisville and Nashville Company was liable for the outstanding Tennessee State bonds issued to it, and that the title of the Louisville and Nashville Railroad Company to the Memphis, Clarksville and Louisville Railroad Company I was afraid was not good, the outstanding Tennessee State bonds issued to it being not all paid.

34

> (Respondent's counsel objects to the answer as hearsay, and wholly incompetent and illegal.)

44 Q. Who else, if anybody, was present at this interview?

A. After discussing the matter some time with Mr. Newcombe, he called in the attorney of the company, Russell Houston, I think, who produced
what purported to be foreclosure proceedings 35
against the Memphis, Clarksville and Louisville Company, through which he claimed the Louisville and Nashville had derived a good title. I pointed out the fact that the debt had not become due, and that there was no provision for foreclosing until maturity.

> (Respondent's counsel objects to the answer as hearsay, and totally incompetent and illegal.) 36

45 Q. Have you not at all times appropriate insisted to the railroad officials of Tennessee with whom you came in contact that the bonds issued to their respective roads were first liens thereon, and that they would in all probability be sued for the enforcement of those liens?

37 (Objected to as incompetent and irrelevant and leading.)

A. I have repeatedly told officers of Tennessee roads that I believed Tennessee State bonds issued to them to be a first lien,and that they would probably be sued on account of them.

(Objected to as incompetent.)

38 46 Q. Have you not stated to the same effect to R. T. Wilson several years ago ?

A. I have emphatically said so to Mr. Wilson, but how many years ago I can't say.

47 Q. Were you present at some conferences between railroad officials and bondholders in New York City, at the time of the special session of the Legislature of Tennessee, in 1877, at which conferences R. T. Wilson was also present ?

39 A. I have no recollection of any conferences between railroad officials and bondholders at that time ?

48 Q. Were you present at a meeting about that time at which R. T. Wilson read a statement ?

A. I was during part of the time.

49 Q. Was not the subject of these railroad liens discussed at that meeting ?

A. I think not.

40 *Re-cross examination* by Mr. HUMES:

50 x Q. Do you now consent to answer cross-question 31 ?

A. Same answer as yesterday. I will state the terms. The terms upon which the suits are to be prosecuted are: The bondholders wishing to join shall contribute five dollars in cash for every lien bond, and also one past due coupon from each bond of that description. Every bondholder desiring to unite is required to sign this agreement. 41

(Agreement produced. Marked in evidence "Respondent's Exhibit No. 7.—W.H. D.L., Sp'l Ex'r.)

(And also the plan upon which such agreement is based. Circular produced and marked "Respondent's Exhibit No. 8." W. H. D. L., Sp'l Ex'r.) 42

51 x Q. Have you stated fully the terms and stipulations of each and every contract and agreement which you have entered into with others to prosecute these suits?

A. I have stated fully the terms upon which the committee have agreed to prosecute these suits. The only agreement between them and the bondholders.

52 x Q. I repeat the question as not answered? 43

A. I want to know what you mean by prosecuting the suits?

53 x Q. I mean the conduct of the suits in the ordinary way suits are conducted by plaintiffs in Civil Courts?

A. That I don't understand either.

54 x Q. I repeat interrogatory 51. Have you stated fully the terms and stipulations of each and every contract which you have entered into with others to carry on these suits to a final hearing? 44

(Objected to because the witness has answered the question, because on a previous repetition the witness has asked for an explanation of its meaning, and because upon an explanation having been attempted the witness has stated that he did not under-

45 stand the explanation. Under these circumstances any answer is objected to.)

(Further objected to because counsel has stated that he has a copy of the contract he wishes to elicit, and could therefore afford the explanation the witness desires.

A. I have stated fully the terms upon which we have agreed to carry on these suits to a final hearing. 46

(It is agreed that the question shall be certified to Judge Blatchford for decision.

Adjourned to further notice.

NEW YORK, October 23, 1879.
11 A. M.

Present—Counsel as before.

47 **PETER GEDDES** re-called and examined by Mr. **ANDREWS**:

55 Q. At the time you wrote the letters to James D. Porter and James L. Gaines, referred to in your deposition, were you an owner of non-lien bonds of the State of Tennessee?

A. I was an owner at that time of what I believed to be non-lien bonds.

56 Q. Is the Mr. Smith of your firm of Geddes & Smith Mr. George Smith of London? 48

A. He is not.

Cross-examination by Mr. **HUMES**:

57 x Q. In your propositions to the Governor and Legislature of Tennessee for a compromise, and in your letters touching the same subject, did you confine the compromise, or express any limit to the

bonds not issued to railroads. I mean the proposition of compromise which is exhibited with your deposition now being taken, and which proposition is dated February, 1877? 49

A. No.

58 x Q. Did you not approve of and sign the subsequent proposal for reducing the principal?

A. I think I did not sign it, I may have subsequently approved it.

59 x Q. In any correspondence or action of yours to produce a compromise, did you limit the terms to bonds not issued to railroads? 50

A. I think not.

60 x Q. Did you not, when you signed the proposition above mentioned, dated February 15, 1877, and your correspondence herewith filed, with Governor Porter and James L. Gaines, own Tennessee bonds issued to railroads, as well as those not issued?

A. I believed I owned some bonds issued to railroads. 51

61 x Q. Have you entered into any agreement or contract touching the prosecution of these suits with any persons other than the contracts you have already exhibited with this deposition?

A. Do you mean the contract with our counsel?

62 x Q. I mean with them or any other person or persons?

> (Objected to by counsel for complainants as to that portion which refers to counsel as immaterial and irrelevant, and any answer objected to in that respect until the Court can rule on the competency of the evidence.) 52

A. I decline to answer as to counsel. We had no agreement with any other person or persons other than that exhibited.

53 63 x Q. You say in your last answer that you have no agreement except those exhibited with any other person or persons; do you use the word person or persons in the above answer as excluding or including your counsel?

(Objected to upon the ground that the witness had declined te answer as to counsel.)

54 A. I decline to answer as to counsel, and as to other persons I have already answered.

(Counsel for defendants reserve the right to submit to the Court the competency of the questions declined to be answered by this witness.)

P. GEDDES.

Subscribed and sworn to before me,
23d day of October, A. D. 1879. }

55 WILLIAM H. DELANCEY,
Special Examiner.

I, WILLIAM H. DELANCEY, Special Examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee to take the testimony and proofs of both parties in the above-entitled suit in the city of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at my 56 office, No. 52 Broadway, in the city of New York, by the counsel and witness aforesaid. That the said witness was duly sworn in the above-entitled suit and examined, and the deposition was reduced to writing and read to the witness, and by him subscribed in my presence, and that the exhibits hereto annexed and marked Complainant's Exhibits No. 1, and Respondent's Exhibits Nos. 1, 2, 3, 4,

5, 6, 7 and 8, were introduced in evidence in said 57
cause during the taking of said deposition.

Dated Oct. 23, 1879.

William H. Delancey,
Special Examiner.

58

In the case of Calvin Amory Stevens, *et al.*, on behalf of the holders of Internal Improvement Bonds, of Tennessee, issued to the Memphis & Charleston Railroad Company,

versus

The Memphis & Charleston Railroad Company, *et al.* 59

In the United States Circuit Court,

For the Western District of Tennessee,

I hereby certify that there were produced before
me during the taking of the deposition of Peter 60
Geddes in this cause, six (6) Tennessee bonds, each bond being for the principal sum of one thousand dollars, and bearing the impression of the great seal of the State of Tennessee on the face thereof.

A true and exact copy of one of said bonds is as follows:

61 **COMPLAINANT'S EXHIBIT No. 1.**

W. H. D. L., Spl. Exr.

M. UNITED STATES OF AMERICA. M.

No. 419. B.

STATE OF TENNESSEE.

Know all men by these presents, that the State of
Tennessee acknowledges to owe to
62 or order, one thousand dollars, lawful money of the
United States, which sum the said State promises
to pay in the City of New York, on the 1st day of
January, 1892, with interest at the rate of six per
cent. per annum, payable semi-annually, according
to the tenor, and upon the presentation of the
coupons thereto attached. For the performance of
all which the faith of the State of Tennessee is
hereby irrevocably pledged, as this bond is issued
in pursuance and under the provisions of an Act of
63 the General Assembly of said State, passed at its
session of 1851-2.

In witness whereof I, W. B. Campbell,
Governor of said State, have hereunto signed my name and caused
the same to be countersigned by
the Secretary of said State, and the
Great Seal of said State to be
hereto affixed, at Nashville, this
64 1st day of January, 1852.

W. B. CAMPBELL, *Governor*.

W. B. A. RANNEY, *Secretary of State*.

$1,000. $1,000.

The other five (5) of said bonds are of like tenor in all respects with the foregoing, except that they

differ in their numbers, being numbered as follows: 65
491, 673, 692, 1,559, 3,409.

All of said bonds are dated on the 1st day of January, 1852, except number 1,559, which is dated on the first day of January, 1855, and number 3,409, which is dated on the 1st day of January, 1856.

Nos. 491, 673, 692, are signed W. B. Campbell, Governor; W. B. A. Ranney, Secretary of State.

No. 1,559 is signed Andrew Johnson, Governor; W. B. A. Ranney, Secretary of State.

No. 3,409 is signed Andrew Johnson, Governor; 66
F. N. W. Benton, Secretary of State.

All of said bonds having thirty-two coupons attached to each bond.

The last coupon falling due is in all respects, except as hereinafter stated, similar and like unto the following true and exact copy thereof:

$30. $30.

The Treasurer of the State of Tennessee will pay
the bearer thirty dollars, in the City of New York, 67
on the first day of July, 1876, being the semi-annual interest then falling due on bond No. 419.

ARTH. R. CROZIER, *Comptroller*.

All the coupons attached to bonds numbered 491, 673, 692, 1,559, 419, are signed Arth. R. Crozier, Comptroller.

Coupons attached to bond No. 3,409, are signed by J. C. Luttrell, Comptroller.

There are seven overdue coupons upon each of 68
the afore-numbered bonds, the first coupon thereof having fallen due on the 1st day of July, 1876. The other six of said coupons fall due at intervals of six months from the date of the coupon above mentioned.

All the aforesaid bonds with the coupons attached thereto, were left by the witness, Peter Geddes, for

69 inspection by me and the solicitor for the respondents then and there present, and were inspected by me and by him.

The endorsements on said bonds are as follows: on bond No. 419, "registered under 9th Section of Funding Act, approved May 17, 1873, Jno. C. Burch, Comptroller; Chas. N. Gibbs, Secretary of State."

			Audited Mar.	4,	1874.
On bond No. 491,	same	"		"	"
70 673,	"	"	Feb.	11,	"
692,	"	"	"	21,	"
1,559,	"	"	"	11,	"
3,409,	"	"	Sep.	15,	1873.

In addition to the foregoing, the following endorsement is upon bonds Nos. 419, 491:

"Assigned and transferred by E. Cramer to the State Treasurer of the State of Wisconsin, in trust for the State Bank of Wisconsin.

71 Madison, Apr. 14th, 1853.

J. S. BAKER,
Bank Compt'r.

CHAS. T. KVELIN,
State Treasurer.
By CARL HABICH,
Asst. State Treasurer.

WILLIAM H. DE LANCEY,
Special Examiner.

72

RESPONDENT'S EXHIBIT No. 1. 73

W. H. D. L., Spe'l Ex'r.

New York, February 15, 1877.

To his Excellency James D. Porter,
Governor of the State of Tennessee.

Sir : On the 26th of December last, we had the honor of addressing to your Excellency a letter on the disordered condition of the public debt of the State of Tennessee, of which we are owners and the 74 representatives of owners of a large amount, and of conveying to you in same an expression of our confidence and belief that a permanent adjustment of the debt on a basis equitable to the holders of it and honorable to the State was practicable, begging that your excellency would recommend to the Legislature to appoint a commission to come to this City and confer with the creditors of Tennessee, with the view of bringing about such an adjustment. 75

We now have the honor to acknowledge the receipt of communication to us severally, addressed by your Excellency, accompanied by a resolution of the Legislature of Tennessee, approved on the 27th January ultimo, in which the holders of the public debt of the State are invited to submit to the General Assembly, through your Excellency, propositions for an adjustment of said debt, and at the same time to most respectfully express to your Excellency, and through you to the Legislature and 76 people of Tennessee, our great regret and disappointment that the Legislature did not think it expedient to appoint a commission to come to New York to confer with the creditors of the State, for the purpose mentioned ; because such a conference we still believe would have developed a plan of adjustment that, while doing equity to the

77 creditors of Tennessee, would, by bringing her revenues and finances into harmonious and easy working order, restore her credit and again place it firmly on the high and solid ground it once occupied, offer encouragement to capital to seek employment within her borders in the development of her unsurpassed natural resources, and result in the greatest good to the people of the State generally, enabling them to transmit to posterity together with the good name which they had inherited, a heritage 78 far richer than had come down to them from their fathers.

We have carefully considered the liabilities and resources of Tennessee; we know that her great wealth of mine, field and forest are only in the infancy of development.

We know also how much the future development of the vast but now comparatively latent resources of the State depends upon a restoration of her credit and the re-establishing of her 79 financial system upon a sound basis; and knowing, moreover, that public creditors of the State would be benefited, in common with the people of Tennessee, by a restoration of her credit and by giving her a healthy fiscal system, we beg leave to submit to your excellency, and through you to the legislature and people of Tennessee, the following propositions as to what can be done by the people of Tennessee, with the co-operation of their public creditors, for the immediate adjustment of their 80 public debt and for its ultimate extinguishment in an easy, gradual and feasible way—a way which, if adopted, we feel very sure we hazard nothing in saying will be productive of the most beneficial results to the people of Tennessee.

It will be observed how essential to the success of the plan we submit for present adjustment and ultimate extinguishment of the debt will be the cordial co-operation of both debtor and creditor, and to what extent we propose that the public creditors of Tennessee shall contribute to its success. 81

We propose:

1st. That the revenue laws of the State shall be amended so that the collection of taxes may be assured at the time or times when they become due, and that at the smallest possible cost to the tax-payers.

82

2d. That the reforms proposed and recommended to the legislature by your excellency, in regard to the cost of county criminal prosecution, be enacted into a law.

3d. That the expense of the State Government be reduced to as low figures as is consistent with the maintenance of its dignity.

4th. That the present rate of taxation be maintained, and that the other sources of revenue be not diminished. 83

5th. That the State levy annually a special tax of one mill on the dollar of taxable property, the proceeds of which in every year, together with any surplus revenue, shall be used in the purchase, cancellation and destruction of the new issue of bonds which it is proposed herein to issue for existing bonds snd past-due coupons of July 1, 1877. 84

6th. That the Legislature pass a law authorizing the funding of all outstanding bonds of the State, of all past due coupons thereon, and of the coupons which will fall due on July 1, 1877, into new bonds of the State, bearing date July

> 1, 1877, and having fifty years to run to maturity, bearing interest for a period of five (5) years from their date at the rate of three (3) per cent. per annum; for a second period of five (5) years thereafter, interest at the rate of four (4) per cent. per annum; for a period of five (5) years from the termination of the last mentioned period, interest at the rate of five (5) per cent. per annum, and thereafter and until maturity and payment, interest at the rate of six (6) per cent. per annum; interest on each bond to be payable semi-annually, on January 1 and July 1, in every year from and after its date, and the coupons evidencing it to be receivable by the State for all taxes and dues payable to the State, and bonds to be $100, $500, and $1,000 each.

The debt of the State, as may be readily ascertained, will be within her control and easy power to manage and protect from the start, if, as we sincerely hope may be the case, the plan herein outlined is availed of, and we may add that our aim has been to make it within the easy power of the people of Tennessee to avail of it.

As will be perceived by your Excellency, the Legislature and people of Tennessee, the public creditors of Tennessee in acquiescing in this proposed plan of co-operation between them and the people of Tennessee for restoring the credit of the State and ultimately extinguishing her public debt, will voluntarily relinquish about seven millions of their claims against Tennessee, an amount equal to about one-third of the entire amount of the public debt.

On the other hand we propose that the people of Tennessee adopt the easiest and simplest mode which we can conceive of for the ultimate extinguishment of their entire public debt, a mode which, while it will

only produce the very moderate annual sum of $268,- 89
000 at the present low valuation of property, will, by its silent but sure work, pay off the debt completely, while by its operation it will so reduce the amount upon which, under this plan, interest will require to be paid, that at the expiry of each period for an advance in the rate, the reduced amount for which interest will have to be provided, and the certain increase in the value of property, will together work to make the present rate of taxation quite sufficient to meet all demands upon the 90
State.

During the first fifteen years of the currency of the proposed new issue of bonds, we estimate that the proposed special tax for its ultimate payment will pay off between five and six millions of dollars in bonds, allowing 20% of the tax for its collection, and the expense of buying bonds with the proceeds.

When it is considered that this can be accomplished at so small an annual charge to the people 91
of Tennessee, and that such certain beneficial results to them are sure to follow, we have the greatest confidence that their loyalty to Tennessee, their determination to preserve and perpetuate her honor and good name will be sufficient to induce them to make the manly effort to that end of unitedly raising a one-mill tax on their property annually.

We are quite well aware of the partial failure of the crops in Tennessee in the years 1873 and 1874, and of the depressed condition of business, and of 92
all industries in the State, but throughout the country there exists the same depression—stagnation.

In full recognition of this depression and stagnation, which there is every reason for believing will soon give place to better times, we have in the plan herein submitted for a re-arrangement of the finan-

93 ces of Tennessee made her obligations within her means and evident ability to meet now.

With the existing rate of taxation, and the proposed special tax for the extinguishment of the debt, which together will make a five-mill tax, it may not be improper to compare the rate of taxation in the States which border on Tennessee:

In Arkansas	the rate is	10	mills,
Mississippi	"	6½	"
Alabama,	"	7	"
94 Georgia,	"	5	"
North Carolina	"	3 3/10	"
South Carolina	"	12	"
Virginia	"	5	"
Kentucky	"	4½	"

In conclusion, we beg to express to your Excellency, and through you to the Legislature and people of the great State of Tennessee, our confidence that all will unite with us in this effort to make it
95 possible to avail of the proposed co-operation of the creditors of Tennessee to bring about so desirable a result as the re-establishment of the credit on a plan so favorable as we have herein outlined, and we have the honor to be

Your obedient servants,

George Smith, of London, England,
by Geddes & Smith, agents, &c.

Brown Brothers & Co., Agents.
96 Drexel, Morgan & Co., Agents.
E. D. Morgan & Co.,
Agents and owners.

James G. King's Sons,
as agents for bondholders.

Ward, Campbell & Co., Agents.
G. W. Stanton, Jr.
P. Geddes.

We concur in the foregoing. 97

Calvin Stevens,
by C. Amory Stevens, att'y.
J. V. Clark, Pres't, Chicago,
per Thos. G. Robinson.
Wm. G. Creamer, 96 John st.
Chas. J. Hine, New York City.
A. Iselin, as Att'y, New York.
W. R. Jenkins, New York.
Mrs. Josephine S. Newcomb, 98
by H. Pomeroy, Att'y,
54 Broad street.
George Watson, Chicago,
per James H. Smith.
Jno. H. Macey, Pres't.
Henry E. Johnston, Baltimore.
Johnston, Bankhead & Co.,
Baltimore, Agents.
Thomas F. Andrews, Baltimore. 99
M. Abrams, Baltimore.
William De Gory, Baltimore.
Samuel L. Peters, Baltimore.
Wilson, Colston & Co., Agents,
Baltimore.
John S. Gittings, Baltimore.

RESPONDENT'S EXHIBIT NO. 2.
W. H. D. L., Sp'l Ex'r. 100

New York, Feb. 23d, 1877.

His Excellency,
James D. Porter,
Governor of Tennessee:

Sir: We beg leave to call your attention to the enclosed telegram to the *New York Herald*, from

101 its Nashville correspondent, cut from this morning's issue of the *Herald*, and to confirm our dispatch to you of this morning by telegraph in relation thereto, as follows:

> "Proposition from large and influential New "York and Baltimore bondholders expressed to "you on Wednesday, and should be received to-"day. Bondholders here know nothing whatever "of a meeting or of resolutions reported in *Herald* "to-day as having been sent to you, and by you
> 102 "transmitted to legislature, with a special message.
>
> "This may be a movement designed to destroy "or embarrass any proper adjustment."

No meeting of bondholders of Tennessee, so far as we are aware or can ascertain, has either been called or held in this city. Neither have we heard at any time of a purpose to call or hold such a meeting, nor of a purpose or desire on the part of real holders of Tennessee bonds to take any action
103 whatever, outside of what has been taken through and in the communication which we, with others, had the honor to address to you under date the 15th current. It could hardly be possible to call or hold a meeting here of Tennessee bondholders without our knowing or hearing about it. Such being the case, we thought it our duty to telegraph to your Excellency as we did this forenoon. It occurred to us that possibly an attempt to mislead your Excellency and the people of Tennessee as to the senti-
104 ments and wishes of the real holders of the indebtedness of the State had been made, akin to the attempt made last year to create a false impression, through a letter to the State Treasurer, to which the name of one of the Astors had been forged.

The debtors of the State, with all of which she has been extremely liberal, even to the injury of her own credit many here believe, are supposed to

be antagonistic to the consummation of any plan for 105
the restoration of Tennessee credit now, the complete prostration of which, it is supposed, would be for their immediate pecuniary advantage. This view, if entertained by any of the debtors of the State, is unsound. For, with every decline in the credit of the State, their credit inevitably suffers.

But, to remove this cause of a real or apparent antagonism between the debtors and creditors of the State, and also to remove—which
is of immediate and great importance—an 106
obstacle which is calculated to prevent or, at least, hinder the people of Tennessee and their public creditors from coming to an agreement with respect to what each should do to restore the credit of the State, and place it on a solid basis, we would respectfully suggest to your Excellency that the debtors of the State be required, within a reasonable time, say by or before July 1st, 1877, to pay off every obligation due from them to the State
as now they may do, after which time only such ad- 107
vances as were specifically made to each to be receivable in payment or cash; this is to apply to principal and interest.

We submit to your Excellency whether there would be any hardship or injustice in requiring this, and assure you that the creditors of the State would regard such a step as one taken in the right direction; and

We remain
Your Excellency's Ob't Serv'ts, 108
GEDDES & SMITH.
E. D. MORGAN & CO.

The views above given, we beg to add, are for your own personal consideration.

G. & S.

109 I, **William H. DeLancey**, special examiner, do hereby certify that an original letter, of which the foregoing is a true and exact copy, was produced before me on the examination of Peter Geddes, a witness produced on the part of the complainants, and was submitted to him and acknowledged by him, as appears in his deposition, to which this is annexed as an exhibit. I further certify that the foregoing copy is a copy of the whole of such original letter.

110 New York, October 13th, A. D. 1879.

WILLIAM H. DeLANCEY,
Special Examiner.

RESPONDENT'S EXHIBIT No. 3.
W. H. D. L., Sp'l Ex'r.

111 (Private.) New York, Aug. 1, 1877.

Hon. James L. Gaines,
Comptroller,
Nashville.

Dear Sir :—I think that I may now safely say to you confidentially that the parties in interest will be prepared to pay off the debts of the Mississippi Central to your State just as soon as it is safe for them to do so.

I was amused when I read in the American newspaper the other day the very brief notice of the payment of the debt of the Memphis and Charleston 112 road to the State, which it published. A stranger would conclude that it was published solely to account for your being in New York, about which the public might be concerned, to assure the people of Tennessee that you were not here to pay off the State debt, or anything of that kind.

I have not yet heard from Mr. Smith, and am 113
therefore not able to indicate what view he may take of the conditions upon which Governor Porter says he will call an extra session of the Legislature. I have, however, not changed my own views as to what should be done, but I am more firmly convinced than ever that the proposition of the bondholders should be accepted, or one its equivalent, which I think might be gotten up, offering to settle at say 75 % of principal and interest in 6% bonds, coupons receivable for all taxes and dues to the State. If 114
any hope were held out that a settlement can be effected at the equivalent of our proposition, say 75c., I would do my best to get all the principal bondholders to make a proposition to settle at that, and I think that with careful handling it could be carried. Of course there are always some who hold back, but I think that the great majority would take 75% under the name of the equivalent of their proposition already made.

The debts of the railroads to the State may now 115
be regarded as practically settled. What remains is simply a question between debtor and creditor.

Freed from the complications which grew out of these railroad debts the discussion of the debt question will be very clear and simple henceforward.

If a few of you men of influence and character would unite in an effort to bring about a compromise on the basis of 75 % I think it could be effected satisfactorily to all, while it is very doubtful if
an acquiesced in settlement at a lower figure would 116
ever be regarded as other than a forced one by the public and the bondholders.

The intervention of the so-called arbiters of the Clearing House was the most unfortunate thing that could have happened.

Personally I have worked hard to save the remnant of Tennessee's once good credit, and I make

117 this last effort to complete the job. If it fails, let it be so. Posterity will ever regret a blunder made now.

If you think so advisable you may convey to the Governor at your convenience the substance of what I have said, and let me know what he may have to say in reply.

Very truly yours,
P. GEDDES.
P. O. Box 936.

118

RESPONDENT'S EXHIBIT No. 4.

W. H. D.L., Sp'l Ex'r.

New York, Aug. 23, 1877.

James L. Gaines, Esq.,
Comptroller.

119 *Dear Sir:*—I duly received your esteemed favor of the 8th current.

Since then I learn that the Mississippi and Tennessee Railroad Company have voted to pay off their debt to Tennessee. This practically settles up all advances made by the State to railroad companies, and reduces the whole State debt question to one between the people of Tennessee and the investors in their public debt. What the latter will agree to do I can not say. They may or may not adhere to 120 their pro position of last February.

If the people of Tennessee under any circumstances are liable to do anything disgraceful in regard to their public debt, or permit anything of that kind to be done, of which you seem to entertain fears, should a settlement not be come to this year, and the debt question become one of the issues in the State canvas of next summer, the inquiry forces itself upon the bondholders, of how much value would the reduced debt of such a people be to the holders of it? 121

This is a very serious question in view of the fears you express, and of what I will now only characterize as the extraordinary legislation of last winter. I shall be happy to hear from you in reply at your convenience.

Mr. Smith has been travelling since the beginning of July, and hence we do not hear from him.

I am, 122
Very truly yours,
P. GEDDES,
P. O. Box 936.

RESPONDENT'S EXHIBIT No. 5.

W. H. D.L., Spe'l Ex'r.

(Private.) New York, August 27, 1877. 123

Hon. James L. Gaines,
Nashville.

My Dear Sir: I have just had an interview with Mr. Osborne, who reports that in thirty days the parties in whose interest the Mississippi Central was bought in the other day will receive a confirmation of their purchase. It is quite well understood here that so soon as they can do so with safety, they will pay off the lien of Tennessee on the Miss. 124 Central, and that they now think they can safely pay it off sixty days hence.

There is thus little doubt that the last of Tennessee's advances to the railroads within her borders will be paid off early in the fall, thus freeing her and her creditors too, for that matter, from a very troublesome disorder.

125 Although you do not in your note of the 8th current
give much reason to hope that a settlement of
Tennessee's debt on any other than the Coe Committee's
plan is now practicable, I still cling to the
belief that the honest citizens of Tennessee who must
be still in the majority, would much prefer to pay
the State debt *in full*, if some plan were submitted
which would make it clearly possible for
them to do so.

The outstanding bonds of Tennessee are mainly
126 held by investors, by trustees, and Trust Institutions.
The "margins" of speculators in and out
of Wall street have long ago disappeared, and the
bonds upon which they were held been sold.

Now investors, and parties, and institutions holding
in trust, prefer much any reasonable reduction
of the rate of interest their investments will produce
to a reduction of the principal.

For the past four years they have been receiving
lower rates of interest and smaller dividends on
127 their investments than they had been accustomed
to. Many of them, judging by the large subscriptions
to government four per cents. recently, have
come apparently to the conclusion that lower rates
of interest than formerly prevailed will hereafter
permanently prevail. This is the mood in which
they now appear to me to be, and it has suggested
the idea that advantage might possibly be taken of
so favorable a time and circumstances by the
friends of Tennessee to bring about a compromise
128 of the rate of interest on her debt which would enable
her with ease to pay it all off.

I will not discuss her ability to pay her debt, but
will assume it and pass on to my suggestion, which
is as follows:

The State to issue new bonds for the principal
and past due interest of her existing bonds, to bear
interest at 4 (four) per cent. per annum, payable

semi-annually, January 1 and July 1, in each year, 129
coupons to be attached to the bonds representing
each payment of interest, to be receivable by the
State for all taxes and dues to the State, and to be
free from taxation of any kind in the State. The
bonds themselves to be payable fifty or one hundred
years hence, and redeemable by the State at any
time after six month's notice that the State is prepared to pay them.

The bondholders of Tennessee may object to making
such a proposition of compromise; but if I get 130
from you and the Governor encouragement that if
such a proposition were made by the holders of
more than half the debt, it would be accepted, I
will exert myself with Mr. George Smith and other
well known large holders to make it.

Firmly convinced as I am that a settlement
in full, if by any possibility it can be accomplished,
will be of immense present and future advantage to
Tennessee and Tennesseeans, I hope that you will
induce Governor Porter and the other friends of 131
State credit to give my suggestion careful consideration.

I do not dare to mention it to any one yet, but will set the wheels in motion if hope of acceptance is held out, and will, if necessary, go to Nashville for the purpose of an interview with the Governor and yourself.

If the friends of Tennessee in Tennessee will extend to her a helping hand, I think that she can
still be restored and her honest pride saved. 132

Let me hear from you on receipt and write further afterward.

Truly yours,

P. GEDDES.

133 **RESPONDENT'S EXHIBIT No. 6.**

W. H. D. L., Spl. Exr.

NEW YORK, Aug. 29, 1877.

HON. JAMES L. GAINES,
Nashville, Tenn.:

My Dear Sir:—I thank you for your favor of 25th current, and for the information and suggestion therein communicated.

134 Seeing by the morning papers that the Governors were to meet yesterday at the Continental Hotel, Philadelphia, I telegraphed to Governor Porter there asking him where a letter would reach him today, and after hearing from him wrote him with a copy of my last letter to you, asking him to let me have the benefit of his views thereon in advance of his arrival here, and saying that if agreeable to him I would with pleasure call upon him when he comes to New York.

135 In case Tennessee wants to pay off her debt it will be of great advantage to her to arrange for a low rate of interest on it. Bonds bearing a low rate of interest can be with greater ease or at lower cost bought for a sinking fund than can bonds bearing full rates.

This is a point I had in view when we made our proposition of compromise, and one which I hope will have some weight yet with you.

Yours truly,
P. GEDDES.

136

I, WILLIAM H. DELANCEY, Special Examiner, do hereby certify that four original letters, of which the foregoing are true and exact copies, were produced before me on the examination of Peter Geddes, a witness produced on the part of the complainants, and were submitted to him and acknowledged by him as appears in his deposition to which they are annexed as an Exhibit. I further certify that the foregoing copies are copies of the whole of such original letters. 137

New York, October 13th, 1879.

WILLIAM H. DELANCEY,
Special Examiner.

RESPONDENT'S EXHIBIT No. 7.

W. H. D. L., Sp'l Ex'r. 138

To THE COMMITTEE OF TENNESSEE BOND-HOLDERS:

I hereby assent to the plans and conditions of the Committee's Circular of May 17th, 1879.

LIST OF BONDS.

COLOR.	LETTER.	NUMBERS.

139

140

141 **RESPONDENT'S EXHIBIT NO. 8.—W. H. D. L., Sp'l. Ex'r.**

OFFICE OF COMMITTEE OF
TENNESSEE BONDHOLDERS,
No. 31 Nassau Street.

P. O. Box 936. NEW YORK, May 17, 1879.

To the Holders of Tennessee Bonds:

In our last circular we informed you that the committee was considering the best means for enforcing 142 our first mortgage liens against the railroads in Tennessee. After full deliberation, with advice of counsel, and with the approval of the following prominent houses interested: Brown Brothers & Co., Maitland, Phelps & Co., Ward, Campbell & Co.; and of the Presidents of the Seaman's Savings Bank, and the Globe Mutual Life Insurance Co. of New York; and of large individual holders in New York, Baltimore, Philadelphia and Chicago, we have decided to adopt the suits lately instituted by 143 Mr. C. Amory Stevens. Prompt action on the part of the bondholders will enable us to bring these suits to trial during the ensuing summer.

It may be well for us to give some of the considerations that make us confident of a successful enforcement of the lien conferred on our bonds by the distinct language of the Tennessee Statutes. While Tennessee bonds of the new issue were being offered for sale in behalf of the railroads of the State, S. Watson, "agent for the State of Tennes-144 see," addressed the following argument to the public, which was printed in pamphlet form in 1868:

"The important question for the bondholder now " is, What security have I for the payment of the " principal and interest of my bond? The State " debt proper is only about four millions. The " railroads and all their rolling stock are mortgaged " to the State to secure the *payment of bonds* "*loaned.* This mortgage, as bondholders must 145 "know, enures to their benefit. For the payment "of twenty-nine million bonds, which will be the "entire amount of bonds issued to the roads, including those that may be issued under the recent "Act of the Legislature, *the bondholders have "as security* roads which, when completed, will be "nearly two thousand miles in length, and which "will be worth fully seventy million dollars. In "addition to that, they have the whole resources "of the State solemnly pledged to them." 146

Again, in 1868, when the Legislature of Tennessee sought to impair our securities, Gov. Brownlow, then chief executive, sent a message to that body remonstrating against the proposed measures in the following emphatic language:

"The State, in point of honor and fact, holds the "lien in a fiduciary capacity. She holds it *in trust* "for the benefit of the bondholders. She honorably has no right to abandon it or surrender it to "the companies. She ought not to prove faithless 147 "in this *trust*, but maintain and execute it as the "bondholders understood it and as the people of "the State understood it. The bondholders are interested in these resources to pay the bonds they "hold, and the people are interested in them to see "that they are not to be taxed to pay interest or "principal of bonds for which the railroads are "pledged by the terms of the law."

The assurance of our rightful legal claims against the railroads is strongly fortified by the following 148 facts:

In April, 1878, the committee addressed a circular to the bondholders notifying them that it was about to enforce this lien. We petitioned to be heard in the Mobile and Ohio case then pending on appeal before the Supreme Court of the United States. In that suit the question whether or not

149 the holders of Tennessee bonds had a first mortgage
lien upon railroads in that State, was clearly presented.
The cause was fully argued by several
counsel for the railroad company as well as by our
counsel, and the Court took the case under advisement.
Some time after, while we were confidently
awaiting a decision in our favor, we were surprised
to learn that the railroad company had settled the
case with the party to the record in that suit—that
stipulations had been filed in the office of the Clerk
150 of the Supreme Court—that copies had been sent to
the several Judges of the Supreme Court—and, in
short, that everything had been done by the railroad
officials which it was possible to do to forestall
a decision in the case. As we were not actual parties
to that cause, we could not control the matter
in any way so as to prevent a settlement. But,
surely, we could not require any stronger evidence
that the railroad companies were convinced of their
own defeat. Otherwise they would have gladly
151 welcomed a decision which would have relieved
their property from the burden of this lien, and
would have done everything in their power to have
secured a final adjudication in their favor instead of
preventing a decision.

We call your special attention to the accompanying
opinion of Mr. Charles O'Conor. It was given
under a deep sense of moral responsibility in course
of advice sought by a bondholder to enable him to determine
whether or not to embark in a litigation
152 against the railroads. A letter signed by Messrs.
Evarts, Southmayd & Choate, in which it is stated
that they have not time to prepare an opinion
against us, has been circulated in the interest of
the railroads. That letter bases its conclusions on
the Minnesota case, which, we are informed by Mr.
O'Conor, bears in our favor so far as it is at all applicable
to the Tennessee case. It is sufficient to

add that Mr. Southmayd, of the above firm, urged, 153 before the Supreme Court, that same decision in the Minnesota case as a precedent in favor of his clients; but the effect was not convincing enough to induce those clients to refrain from a settlement of the case as before stated.

We append a list of roads on which Tennessee State bonds are first mortgage liens, and the amount of bonds outstanding against each road.

East Tennessee, Virginia & Georgia Railroad, leased lines and branches: 154

East Tennessee & Georgia Railroad.....	$614,000
East Tennessee & Virginia Railroad.....	1,218,000
Memphis & Charleston Railroad........	830,000
Cincinnati, Cumberland Gap & Charleston Railroad........................	350,000
East Tennessee & Western North Carolina Railroad......................	34,000
Total......................	$3,036,000

155

Louisville & Nashville Railroad Company, and purchased and leased lines:

Main Line............		$ 298,000
Memphis, Clarksville & Louisville Railroad		791,000
Memphis & Ohio Railroad.............		1,176,000
Tenn. & Ala. R. R.,	Nash. & D.R.R.,	468,000
Cent. Southern R. R.,		362,000
St. Louis & South-Eastern Railroad Company, on account of Edgefield & Kentucky Railroad.......		645,000
Total		$3,740,000

156

157 Nashville, Chattanooga & St. Louis Lines:

	Nashville & Chattanooga	$ 114,000
	Nashville & North-Western	1,385,000
	Winchester & Alabama	457,000
	McMinnville & Manchester	356,000
	Total	$2,312,000
	Mobile & Ohio Railroad	953,000
158	New Orleans, St. Louis & Chicago Railroad on account Mississippi Central and Tennessee Railroad	480,000
	Knoxville & Ohio Railroad Company on account of Knoxville & Kentucky Railroad	514,000
	The above amounts and some issues to smaller roads make an aggregate of railroad issues made by the State of Tennessee, and which are still outstanding	11,647,000
159	On which there is accrued 23 per cent. interest	2,678,810
	Total due	$14,325,710

Bondholders will please note that "New" bonds, issued to Tennessee railroads, and "Funding Series" bonds, not included in the above list, issued in payment of interest which accrued on railroad bonds under the Funding Acts of 1866, 1868 and 1873, are also statutory liens upon the railroads.

160 The members of the committee are owners to a large amount of bonds that are not liens on the railroads, which they do not propose to fund into the 50 and 4 per cent. bonds offered. They believe that the enforcement of the railroad liens will bring about a much better settlement than is now proposed. It is our duty to inform you that the legality of the proposed issue of the new 4 per cent. com-

promise bonds is already questioned in Tennessee, 161
for want of sufficient acceptances to authorize the submission of the proposed settlement to popular vote, as required by the Act of the last General Assembly.

Holders of North Carolina State bonds, issued in aid of the North Carolina Railroad Company, will recollect how that State made an unsuccessful attempt to deprive such bondholders of the lien originally intended for their security. A like attempt 162
in the State of Indiana, in the case of the Wabash and Erie Canal, was also unsuccessful, and the lien decided in favor of the bondholders.

Bondholders wishing to secure the benefits resulting from this litigation can do so on the following conditions, to wit: by depositing with the committee five dollars per lien bond in cash, and one past due coupon from each bond of that description. This will be required to defray the necessary costs
and expenses of the litigation. In no event will the 163
bondholders be called upon for any further assessment, nor do they incur any personal liability by uniting in this plan. Should any surplus funds remain in the hands of the committee after all expenditures have been provided for the same will be returned to bondholders *pro rata*. Those who do not comply with the aforesaid conditions will be excluded from the benefits derived from the action of the committee. A certificate will be issued to each as-
senting bond, entitling it to any and all advantages 164
resulting from these legal proceedings, and specifying the railroad company bound for the payment of the bond. An arrangement for calling these certificated bonds for dealings in them on the New York Stock Exchange will be made.

When it is considered that the enforcement of

165 these liens should make the great mass of the inter-
nal improvement bonds worth par and accrued in-
terest, or 123 per cent., the advisability of the course
which we have adopted cannot be reasonably doubt-
ed. Your signature to the enclosed assent, stating
color, number and serial letter of each of your bonds
is requested before June 10th. Upon receipt by the
committee of the assents of a sufficient number of
bonds, the holders will be notified of the issue of
the certificates to be attached to the lien bonds. We
166 propose to engage as counsel Chas. O'Conor and E.
L. Andrews, of New York, and George Hoadly, of
Cincinnati, to be assisted by competent counsel at
Memphis, Nashville, Knoxville and Louisville.

167 *Committee of Tennessee Bondholders.*

EUGENE KELLY,
Of Eugene Kelly & Co.

JOHN T. TERRY,
Of E. D. Morgan & Co.

JAS. G. K. DUER,
Of James G. King's Sons.

PETER GEDDES,
Of Geddes & Smith.

R. S. MORAN,
Of 107 East 29th St., N. Y.

C. Amory Stevens,
Treasurer.

Thomas G. Robinson,
Secretary.

168

Deposition of George Arents.

CIRCUIT COURT OF THE UNITED STATES, 1

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis & Charleston Railroad Company,

vs.

THE MEMPHIS & CHARLESTON RAIL-COMPANY *et al.* 2

Testimony and proofs for final hearing on the part of the complainants in the above entitled suit, taken under and pursuant to the 67th Rule in Equity, as amended, before William H. DeLancey, Special Examiner, duly appointed herein. 3

NEW YORK, April 8, 1880.

Present.—Mr. E. L. ANDREWS,
For Complt's,
Mr. C. H. TWEED,
For Respdt's.

4 GEORGE ARENTS, a witness produced on the part of the complainants, being first duly cautioned and sworn in the above-entitled suit to testify to the

5 truth, the whole truth and nothing but the truth,
deposes and says:

(Deposition taken subject to all legal objections of both parties.)

Direct examination by Mr. **Andrews**:

1 Q. Please state your name, age, residence and occupation?

A. George Arents; age 44; residence New York;
6 occupation broker.

2 Q. Have you been a purchaser of Tennessee bonds?

A. Yes, from 1866 to 1879.

3 Q. In purchasing Tennessee bonds, have you selected them according to their numbers?

A. Yes, sometimes.

4 Q. Have you selected the numbers in reference to their issue to particular Railroads?

A. Yes, at one time.

7 5 Q. How many bonds have you purchased in reference to their liens upon Railroads?

A. In this instance that I refer to about $100,000.

Cross-examination by Mr. **Tweed**:

6 x Q. When did you purchase these bonds you have spoken of?

A. I think in the year 1871-2.

7 x Q. Of whom did you purchase them?

A. We bought them of brokers at the board, in
8 the regular way, and when the bonds were delivered
we selected certain numbers and sold others, as occasion arose.

8 x Q. The bonds that you bought you bought at the current market rates for Tennessee State bonds, at the time of purchase?

A. Yes.

9 x Q. Of course you did not at the time of

making those purchases stipulate for bonds of cer- 9
tain numbers, but you took the bonds that the sell-
ers delivered under their contracts without regard
to their numbers, dates or purposes for which they
were issued ?

A. When we bought "old bonds," we had to take
"old bonds" that were a good delivery on the ex-
change of any numbers, and at any time when we
bought "new bonds" we had to take new bonds of
any numbers that were a good delivery. There were
some five per cent. bonds that were not a good de- 10
livery unless specially dealt for.

10 x Q. Did or could you know anything about
what the numbers of the bonds which you bought
would be until they were delivered to you?

A. No.

11 x Q. When did you get the list of numbers by
which you determined which bonds should be re-
tained and which sold ?

A. We got it from Nashville ; I don't recollect
whether from a broker or from a private party ; it 11
was a written list that purported to be a statement
of all the bonds issued prior to the war, but it does
not seem to be signed by anyone ; it purported to
contain the numbers and letters of the bonds issued
before the war.

12 x Q. Did you tell any of the parties from
whom you purchased bonds that you intended to
make any such selection ?

A. No, of course not.

13 x Q. After you had made the selection did you 12
not sell the bonds that were left at the current
market rates at the time for Tennessee State bonds ?

A. Yes, sir, I did.

14 x Q. So that you got as much for the resi-
duum as you would have got for any Tennessee
State bonds ?

A. Yes.

15 x Q. What did you do with the bonds you culled out and selected?

A. We sold them out at the current market rates for Tennessee State bonds at the time they were sold, except in one instance where we made a trade with Norton, Slaughter & Co., because our coupons were short and the bonds would not be a good delivery unless we made the one coupon good.

16 x Q. So that the bonds which you selected you got no more for than you would have got for any 14 Tennessee State bonds at the time?

A. Yes that is so.

Re-direct by Mr. ANDREWS:

17 Q. Will you please attach to your deposition the schedule of numbers and description of bonds on which you relied in making purchases and selecting Tennessee bonds?

A. You have got that so mixed up that I cannot 15 answer it—when the bonds came in we would select certain numbers which we would hold, and dispose of the others as opportunity offered—I will give it to the Examiner to copy and attach.

(Copy annexed, marked Complts. Exhibit No. 1, W. H. D. L., Spl. Exr.)

Re-cross by Mr. TWEED:

18 x Q. Did you ever know of any other person than yourselves, who, at the time referred to, made 16 any such selection?

A. Not to my knowledge.

19 x Q. Did you ever know of the complainant, Calvin A. Stevens, selecting any bonds by their numbers, and if so, when?

A. I can't answer that in that way; I know that he has made an effort to do so, but whether he has done so I have no personal knowledge.

20 x Q. About when was it that he made the effort? 17

A. During the last year.

Re-direct by Mr. ANDREWS:

21 Q. Did you not say in answer to 18 x Q. that there might have been plenty of such purchases, but I did not know of it?

A. I don't know whether I did or not.

22 Q. For whom did you purchase the $100,000 of Tennessee State bonds referred to in your direct 18
examination?

A. Isaac Sherman.

23 Q. Did you not have the schedule of bonds, referred to in your examination, in your custody or under your control, at the time you made those purchases, and did you not make those purchases with the intention of relying upon the schedule in selecting the bonds which you would hold?

A. Yes.

24 Q. May not those purchases have been made 19
earlier than 1871?

A. I am not certain as to the date.

GEO. ARENTS.

Subscribed and sworn to
before me, this 8th day
of April, 1880.

WILLIAM H. DELANCEY,
Special Examiner.

20

I, WILLIAM H. DELANCEY, Special Examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the above-entitled action, in the city of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at

21 my office, No. 52 Broadway, in the city of New York, by the counsel and witness aforesaid. That the said witness was duly cautioned and sworn in the above-entitled suit, and examined, and the deposition was reduced to writing and read to the witness, and by him subscribed in my presence; and that the Exhibit hereto annexed marked Complts. Exhibit No. 1, W. H. D. L., Spl. Exr., was introduced in evidence in said cause during the taking of said deposition.

22 Dated April 8, 1880.

WILLIAM H. DE LANCEY,
Special Examiner.

23

24

COMPLAINANT'S EXHIBIT No. 1.

W. H. D. L., Spl. Exr.

Statement of all the Bonds issued before the war, to whom and for what purpose issued, description and numbers of said bonds, and date of maturity.

Date of Receipt.	Railroads.	By whom Received.	Act authorizing Issue.	Nos. of Bonds.		De-scrip-tion.	When Bonds Mature.
Aug. 3, 1860	Cin., Cumb. Gap & Charleston.	N. E. Smith, Agent..	Mar. 22, 1860	11741 to 11800 and 1 to 66	132,000	1 to 66 Letter C	Jan. 1, 1898
" 25, 1858	Central Southern	Thomas Buford, Agent	Act of 1857-8.	7781 to 7908	128,000		" 1892
" "	" "	" " "	" "	7909 to 8079	171,000		" 1892
Mar. 15, 1859	" "	" " "	Elk River Bridge	8617 to 8629	13,000		" 1898
Sept. 9, 1859	" "	" " "	" "	9969 to 9981	13,000		" 1898
Jan. 18, 1860	" "	Thomas Martin, Prest.	" "	10602 to 10614	13,000		" 1898
May 9, 1860	" "	" " "	Dec. 3, 1859	11019 to 11194	176,000		" 1898
Jan. 9, 1861	" "	" " "	Elk River Bridge	1219 to 1238	20,000		" 1898
April 4, 1857	E. & Ky. and L. &. N. R. R.	E. S. Cheatham	Dec. 15, 1855	5283 to 5302	20,000		" 1892
June 24, 1857	" " "	" "	" "	5453 to 5472	20,000		" 1892
Aug. 13, 1857	" " "	" "	" "	5473 to 5492	20,000		" 1892
Oct. 17, 1857	" " "	" "	" "	5863 to 5902	40,000		" 1892
Mar. 10, 1858	" " "	" "	Dec. 1, "	6088 to 6099 7000 to 7027	40,000		" 1892
Sept. 29, 1858	" " "	" "	Cumberland River Bdg	8155 to 8174	20,000		" 1898
Dec. 28, 1858	" " "	" "	" "	8305 to 8324	20,000		" 1898
Oct. 6, 1859	" " "	" "	" "	10091 to 10110	20,000		" 1898
Jan. 21, 1860	" " "	Jno. L. Helm, Agent	" "	10628 to 10638	11,000		" 1898
Sept. 7, 1850	East Tenn. & Ga. R. R.	J. G. M. Ramsey	Jan. 30, 1850	1 to 150	150,000		" 1898
Mar. 3, 1851	" "	" "	" "	151 to 250	100,000		

	32		31	30			29
May 26, 1851	East Tenn. & Ga. R. R.	J. G. M. Ramsey	Jan. 30, 1850	251 to 350	100,000		
April 10, 1854	" "	C. Wallace, Prest.	Feb. 4. 1852	876 to 895	20,000		Jan. 1, 1892
June 22, 1854	" "	C. Wallace	" 26, 1852	896 to 915	20,000		" 1, 1892
July 30, 1853	" "	Thos. H. Calloway	" 26, 1852	726 to 745	20,000		" 1, 1892
Sept. 7, 1853	" "	C. Wallace	" 11, 1852	746 to 875	130,000		" 1, 1892
Nov. 8, 1854	" "	" "	" 11, 1852	1216 to 1505	290,000		" 1, 1892
Mar. 27, 1855	" "	A. N. Crozier, Agt.	" 26, 1852	1975 to 2014	40,000		" 1, 1892
May 31, 1858	" "	Thos. J. Campbell, Agt	" 11, 1852	6681 to 6780	100,000		" 1, 1892
Mar. 11, 1859	" "	R. C. Jackson, Agt.	" 11, 1852	8517 to 8616	100,000		" 1, 1898
Sept. 9, 1859	" "	C. Wallace, Prest	" 11, 1852	9982 to 10073	92,000		" 1, 1898
June 11, 1858	Edgefield & Kentucky	E. S. Cheatham, Prest.	"	7231 to 7430	300,000		" 1, 1892
Feb. 12, 1859	" "	" " "	Bridge Aid	8491 to 8516	26,000		" 1, 1898
Aug. 30, 1859	" "	" " "	" "	9852 to 9861	10,000		" 1, 1898
Sept. 30, 1859	" "	" " "	" "	10074 to 10090	17,000		" 1, 1898
May 24, 1859	" "	" " "	Feb. 11, 1852	8780 to 8959	180,000		" 1, 1898
June 9, 1859	" "	" " "	Bridge Aid	8960 to 8975	16,000		" 1, 1898
Jan. 23, 1860	" "	" " "	" "	10641 to 10691	51,000		" 1, 1898
April 16, 1860	" "	" " "	March 22, 1860	10794 to 10838	45,000		" 1, 1898
July 27, 1852	East Tenn. & Virginia	S. D. Mitchell, Agt.	Jan. 15, 1852	1 to 10	10,000	Letter B	" 1, 1892
Aug. 9, 1852	" "	" " "	" 15, 1852	11 to 300	290,000	" "	" 1, 1892
Jan. 29, 1855	" "	S. B. Cunningham	Feb. 11, 1852	1706 to 1974	269,000		" 1, 1892
Nov. 7, 1855	" "	" "		2993 to 3092	100,000		" 1, 1892
Jan. 17, 1856	" "	" "	Jan. 15, 1852	3133 to 3232	100,000	Letter B	" 1, 1892
July 15, 1856	" "	" "	Feb. 11, 1852	4272 to 4391	120,000		" 1, 1892
Nov. 18, 1856	" "	" "	" 1852	4841 to 4895	55,000		" 1, 1892
Mar. 3, 1857	" "	" "	" 8, 1854	5048 to 5242	195,000		" 1, 1892
June 8, 1857	" "	" "	" 8, 1854	5303 to 5452	150,000		" 1, 1892
Oct. 12, 1857	" "	" "	" 8, 1854	5793 to 5862	70,000		" 1, 1892
Feb. 4, 1858	" "	" "	" 8, 1854	5988 to 6087	100,000		" 1, 1892
April 7, 1858	" "	" "	"	6120 to 6219	100,000		" 1, 1892
June 10, 1858	" "	" "		7088 to 7130	43,000		" 1, 1892

May 7, 1860	Knoxville & Kentucky........	Jas. A. Mabry, Prest..	Mar. 22, 1860	10939 to 11018	80,000		Jan. 1, 18 98
Nov. 17, 1860	“ “	“ “ “	Feb. 11, 1852	909 to 1008	100,000	Letter C	“ “
April 30, 1858	Louisville & Nashville........	Jno. L. Helm, Prest..	Act of 1853-4	6270 to 6319 & 6574 to 6673	150,000		“ “
“ 30, 1858	“ “	“ “ “	“ “	6424 to 6573	150,000		“ “
July 5, 1859	“ “	“ “ “	Feb. 11, 1852	9302 to 9451	150,000		“ “
April 20, 1861	“ “	James Guthrie, Prest..	Dec. 3, 1859	1582 to 1586	5,000	Letter C	“ “
July 24, 1855	Miss. & Tenn................	F. M. White, Prest...	Act of 1852-3	2853 to 2891 & 2495 to 2552	98,000		“ “
May 22, 1856	Miss. Central & Tenn........	Milton Brown, Prest..	Feb. 11, 1852	3586 to 3885	300,000		Jan. 1, 1892
Nov. 15, 1856	“ ”	“ “ “	“ 11, 1852	4597 to 4840	244,000		“ “
Aug. 28, 1857	“ ”	“ “ “	“ 11, 1852	5493 to 5522	30,000		“ “
June 17, 1856	Mobile & Ohio...............	A. F. Hopkins, Prest.	“ 24, 1856	4186 to 4221	36,000		“ “
“ 17, 1856	“ “	“ “ “	“ 8, 1854	3886 to 4185	300,000		“ “
Dec. 12, 1856	“ “	“ “ “	“ 8, 1854	4948 to 5047	100,000		“ “
Aug. 28, 1857	“ “	Milton Brown, Prest..	Act of 1853-4	5523 to 5792	270,000		“ “
Nov. 14, 1857	“ “	“ “ “ ..	Feb. 21, 1856	5903 to 5997	68,000		“ “
Oct. 11, 1859	“ “	“ “ “ ..	“ 11, 1852	10111 to 10210	100,000		Jan. 1, 1898
July 10, 1860	“ “	“ “ “ ..	“ 11, 1852	11545 to 11644	100,000		“ “
Sept. 17, 1860	“ “	“ “ “ ..	“ 11, 1852	367 to 516	150,000	Letter C	“ “
June 11, 1861	“ “	“ “ “ ..	“ 11, 1852	1707 to 1878	172,000	“ C	“ “
Oct. 4, 1852	Memphis & Charleston........	Arch. E. Mills, Prest.	“ 11, 1852	326 to 565	240,000	“ B	Jan. 1, 1892
Jan. 3, 1853	“ “	“ “ “ .	“ 11, 1852	566 to 725	160,000	“ B	“ “
Nov. 28, 1854	“ “	Sam Tate......... .	“ 11, 1852	1506 to 1705	200,000		“ “
May 22, 1855	“ “	“	“ 8, 1854	2015 to 2054	40,000		“ “
“ 22, 1855	“ “	“	“ 8, 1854	2055 to 2154	100,000		“ “
Nov. 28, 1855	“ “	“	“ 8, 1854	3093 to 3112	20,000		“ “
Mar. 21, 1856	“ “	“	“ 18, 1856	3403 to 3537	135,000		“ “
July 9, 1856	“ “	“	Act of 1853-4	4222 to 4271 4392 to 4441	100,000		“ “
Sept. 29, 1856	“ “	“	July 8, 1854	4492 to 4596	100,000		“ “
Mar. 18, 1858	Memphis, Clarksville & Louisville	Geo. B. Fleece, Agt..	Feb. 26, 1856	6100 to 6119	20,000		“ “
Dec. 20, 1858	“ “ “	Wm. A. Quarles, Prest	Bridge Aid	8295 to 8304	10,000		“ “
June 27, 1859	“ “ “	Chas. G. Smith, Agt..	“ “	9112 to 9151	40,000		Jan. 1, 1898

36 35 34 33

July 9, 1859	Memphis, Clarksville & Louisville	Wm. A. Quarles, Prest	Feb. 11, 1852	9552 to 9851	300,000		Jan. 1, 1898
Oct. 6, "	" " "	Thos. W. Wisdom, Agt	Bridge Aid	10091 to 10110	20,000		"
Dec. 3, "	" " "	Chas. G. Smith, Agt..	" "	10231 to 10250	20,000		"
May 1, 1860	" " "	Wm. A. Quarles.....	Feb. 11, 1852	10839 to 10938	100,000		"
June 27, "	" " "	" "	" "	11226 to 11394	169,000		"
July 26, "	" " "	" "	Bridge Aid	11685 to 11704	20,000		"
" "	" " "	" "	" "	11645 to 11684	40,000		"
Sept. 22, "	" " "	Geo. B. Fleece, Agt..	" "	517 to 536	20,000	Letter C	"
Oct. 23, "	" " "	Wm. A. Quarles, Agt.	" "	537 to 716	180,000	Letter C	"
Dec. 5, "	" " "	Chas. G. Smith, Agt..	" "	1009 to 1028	20,000	Letter C	"
Feb. 28, 1861	" " "	R. W. Humphreys, Pres	Feb. 11, 1852	1489 to 1571	83,000	Letter C	"
May 24, 1855	Memphis & Ohio............	Robertson Topp, Prest	" "	2155 to 2454	300,000		Jan. 1, 1892
July 11, "	" "	" " "	Act of 1853-4	2455 to 2494	40,000		"
Oct. 15, "	" "	" " "	Feb. 11, 1852	2892 to 2991	100,000		"
Nov. 28, "	" "	" " "	Act of 1853-4	3113 to 3132	20,000		"
Feb. 29, 1856	" "	" " "	"	3233 to 3402	170,000		"
April 3, 1857	" "	Sam'l P. Wallace.....	"	5243 to 5282	40,000		"
July 26, 1858	" "	Robertson Topp......	"	7581 to 7780	200,000		"
Dec. 17, "	" "	" "	Feb. 11, 1852	8175 to 8294	120,000		Jan. 1, 1898
Jan. 21, 1859	" "	J. E. R. Ray, Agt...	Bridge Aid	8368 to 8397	30,000		"
May 2, "	" "	" " ...	"	8630 to 8779	150,000		"
July 4, "	" "	J. P. Wood, Agt.....	Feb. 11, 1852	9152 to 9301	150,000		"
Sept. 2, "	" "	" "	" "	9862 to 9961	100,000		"
" 5, "	" "	" "	Bridge Aid	9962 to 9968	7,000		"
Dec. 14, "	" "	W. D. Pickett, Agt...	Feb. 11, 1852	10251 to 10307	57,000		"
Jan. 19, 1860	" "	J. P. Wood, Agt.....	Bridge Aid	10615 to 10627 10639 to 10640	15,000		"
July 20, 1855	McMinville & Manchester....	P. H. Marbury, Agt..	Feb. 11, 1852	2553 to 2852	300,000		Jan. 1, 1892
	" "	" " " ..	" 21, 1856	4472 to 4491	20,000		"
Nov. 19, 1856	" "	" " " ..	" 21, "	4896 to 4997	52,000		"
Feb. 20, 1860	Nashville & Chattanooga......	J. H. Whitesides, Agt	Nov. 4, 1859	10692 to 10773	82,000		Jan. 1, 1898

May 30, 1860	Nashville & Chattanooga......	J. H. Whitesides, Agt	Nov. 4, 1859	11195 to 11225	31,000		Jan. 1, 1898
Nov. 16, "	" "	" " ...	"	882 to 908	27,000		"
Mar. 27, 1861	" "	" " ...	"	1572 to 1581	10,000		"
Dec. 23, 1859	Nashville & North Western....	V. K. Stevenson, Agt	Feb. 11, 1852	10332 to 10601	280,000		"
June 13, 1860	" "	" " ...	Bridge Aid	11395 to 11444	50,000		"
" 29, "	" "	Jno. O. Ewing, Agt...	Feb. 11, 1852	11445 to 11544	100,000		"
Aug. 11, "	" "	" " ...	" "	67 to 196	130,000		"
Sept. 14, "	" "	" " ...	Bridge Aid	197 to 360	170,000	Letter C	"
Oct. 29, "	" "	" " ...	Feb. 11, 1852	717 to 881	165,000	Letter C	"
Dec. 18, 1860	" "	" " ...	"	1029 to 1218	190,000	Letter C	"
Jan. 29, 1861	" "	" " ...	"	1239 to 1358	120,000	Letter C	"
Feb. 23, "	" "	" " ..	"	1359 to 1488	130,000	Letter C	"
April 22, "	" "	" " ...	"	1587 to 1706	120,000	Letter C	"
Jan. 28, 1859	Rogersville & Jefferson........	R. G. Fair, Prest....	Bridge Aid	8343 to 8365	23,000		"
July 7, "	" "	"	Feb. 11, 1852	9452 to 9551	100,000		"
Aug. 1, 1860	" "	"	Bridge Aid	11705 to 11740	36,000		"
July 4, 1854	Tennessee & Alabama........	J. S. Claybrooke, Agt	Feb. 8. 1854	916 to 1115	200,000		Jan. 1, 1892
Sept. 9, "	" "	" " "	"	1116 to 1215	100.000		"
Jan. 1, 1858	" "	Jno. Marshall........	March 15, 1858	6220 to 6290 6320 to 6423 8080 to 8111	186,000		Jan. 1, 1898
" 16, "	" "	Frank Hardeman....	Feb. 26, 1856	5971 to 5987	17,000		Jan. 1, 1892
June 4, "	" "	Jno. Marshall.	" 11, 1852	6781 to 7080	300,000		"
Aug. 27, "	" "	"	Act of 1857-8	8112 to 8154	43,000		Jan. 1, 1898
Dec. 15, 1859	" "	"	Mar. 15, 1858	10308 to 10321	14,000		"
May 10, 1858	Winchester & Alabama.......	V. K. Stevenson, Agt.	Act of 1856	6674 to 6680	7,000		Jan. 1, 1892
June 9, "	" "	" " "	Bridge Aid	7081 to 7087	7,000		"
July 22, "	" "	" " "	Feb. 11, 1852	7431 to 7580	150,000		"
Dec. 30, "	" "	" " "	Bridge Aid	8325 to 8326	2,000		Jan. 1, 1898
Jan. 31, 1859	" "	" " "	Feb. 11, 1852	8327 to 8337 8338 to 8342 8366 to 8367 8398 to 8490	111,000		"
June 21, "	" "	" " "	"	8976 to 9111	136,000		"
Feb. 23, 1860	" "	Jas. R. Bright, Agt...	Bridge Aid	10774 to 10793	20,000		"

RECAPITULATION.

Cincinnati, Cumberland Gap & Charleston has received		132,000
Central Southern	"	534,000
Edgefield & Kentucky & Louisville & Nashville has received		211,000
East Tennessee & Georgia	"	1,162,000
Edgefield & Kentucky	"	645,000
East Tennessee & Virginia	"	1,602,000
Knoxville & Kentucky	"	180,000
Louisville & Nashville	"	455,000
Mississippi & Tennessee	"	98,000
Mississippi Central & Tennessee	"	574,000
Mobile & Ohio	"	1,296,000
Memphis & Charleston	"	1,095,000
Memphis, Clarksville & Louisville	"	1,042,000
Memphis & Ohio	"	1,499,000
McMinnville & Manchester	"	372,000
Nashville & Chattanooga	"	150,000
Nashville & North Western	"	1,455,000
Rogersville & Jefferson	"	159,000
Tennessee & Alabama	"	460,000
Winchester & Alabama	"	433,000
		$13,554,000

RECAPITULATION.

Cincinnati, Cumberland Gap & Charleston has received		132,000
Central Southern	"	534,000
Edgefield & Kentucky & Louisville & Nashville has received		211,000
East Tennessee & Georgia	"	1,162,000
Edgefield & Kentucky	"	645,000
East Tennessee & Virginia	"	1,602,000
Knoxville & Kentucky	"	180,000
Louisville & Nashville	"	455,000
Mississippi & Tennessee	"	98,000
Mississippi Central & Tennessee	"	574,000
Mobile & Ohio	"	1,296,000
Memphis & Charleston	"	1,095,000
Memphis, Clarksville & Louisville	"	1,042,000
Memphis & Ohio	"	1,499,000
McMinnville & Manchester	"	372,000
Nashville & Chattanooga	"	150,000
Nashville & North Western	"	1,455,000
Rogersville & Jefferson	"	159,000
Tennessee & Alabama	"	460,000
Winchester & Alabama	"	433,000
		$13,554,000

114-668

Vol. 2.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~633.~~ ~~357~~ 46

CALVIN AMORY STEVENS AND JOHN T. TERRY
Appellants,

vs.

THE NASHVILLE AND NORTH WESTERN RAILROAD COMPANY AND THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF TENNESSEE.

FILED OCTOBER 8, 1881.

2

Deposition of Ed. Baxter. 1

Ed. Baxter, witness on behalf of the defendants in the above entitled causes, being duly cautioned and sworn, deposes as follows:

My name is Edward Baxter, am 41 years of age, am an attorney-at-law, and reside at Nashville, Tennessee.

In 1870 I was attorney of the Nashville and Decatur Railroad Company at Nashville, Tennessee.

Mr. Sloss, the President of the road, brought to 2
me a printed opinion purporting to be signed by Judges Davis and Davies, attorneys of New York City, and addressed to Mr. Donelson, a chairman of a committee of bondholders. The opinion was to the effect, that the liens reserved upon railroads by the Internal Improvement laws of the State of Tennessee inured to the benefit of the bondholders, and consequently, that the State of Tennessee could not dispose of it without their consent. The Nashville
and Decatur Railroad Company were contemplat- 3
ing the issuance of bonds by said company, to be secured by a mortgage upon their road and franchises, the bonds to be sold and the proceeds used in buying State bonds with which to pay off the debt due from the company to the State under the Internal Improvement Laws. As I understood from Mr. Sloss, the circulation of the opinion of Davis and Davies in New York, would, as he feared, render it difficult to sell the bonds of the Nashville and De-
catur Railroad if allowed to pass unnoticed, and he 4
therefore had concluded to get Hon. Luke Pryor, of Athens, Ala., a very distinguished and able lawyer, to examine the question and give his opinion

5 in writing. I examined the question with Mr. Pryor, and after he had written his opinion I signed a short note at the foot of it expressing my concurrence with his views. I also requested Hon. E. H. East to examine the opinion and if he concurred in it to sign it, which he did. Mr. Sloss' object, as I understood from him at the time in getting Judge East and myself to sign the opinion, was that he supposed that the fact of our being Tennessee lawyers would add something to the weight of an opin-
6 ion based upon Tennessee statutes.

I do not remember how many copies of the opinion were printed. I have an impression that there was not more than a hundred or two copies circulated, and most of those, I suppose, were used in New York where it was expected to place the bonds.

The Nashville and Decatur Railroad Company sold their bonds and paid off the State debt which the State claimed to be due from the Company under the Internal Improvement laws. The Nash-
7 ville and Decatur Railroad Company was never a party to the bill filed by the State to sell delinquent roads, and so far as I ever knew, they never had any idea of having the road sold by the State, either under the bill or any other proceedings, they believing that they could raise the money on their own bonds to pay off the State.

Cross-examination :

8 I was of counsel for Davidson County as a stockholder in the Nashville and Northwestern and the Edgefield and Kentucky Railroads in the case of the State of Tennessee against the delinquent roads. I do not remember to have met John A. Gardner in consultation in that case or to have heard any argument by him. If I saw him at all it has escaped my memory. My recollection is that the

County of Davidson, as a stockholder in the Nash- 9
ville and Northwestern Railroad prayed an appeal
from the decree of the Chancellor ordering a sale of
that road, and the commissioners for the sale of the
roads proposing to go forward with the sale of the
road regardless of the appeal, an application was
made to one of the Supreme Judge's for a *superse-
deas* which I think was granted.

My recollection is that the Nashville and Chatta-
nooga Railroad Company or some individuals, who
as I understood were acting in the interest of that 10
company desired to acquire the Nashville and
Northwestern Railroad, and the *supersedeas* which
Davidson County had obtained threatened to delay,
if not prevent, the completion of purchase, and it
was my understanding at the time, that the N. &
C. R. R. Co. or the individuals who were acting
for it, paid Davidson County, and probably some
of the others stockholders some amount, but how
much I do not now remember. My impression is
that they paid Davidson County thirty or forty 11
thousand dollars in some sort of bonds. My im-
pression is that there was an entry made upon the
minutes of the Supreme Court dismissing the *sup-
ersedeas*. It may be that in my application for a
supersedeas I may have used the name of the N.
& N. W. R. R., and some of its stockholders to-
gether with Davidson County.

I think the payment was made to Davidson
County and the other stockholders to prevent any
other opposition on their part to the sale of the 12
road.

Re-examination:

When the plea of the N. C. & L. R. R. Co. was filed there was an oral argument made by the counsel for the State and also by counsel for that

13 company or its stockholders; I do not remember the precise grounds of the plea, but I think its object was to show that the State bondholders and other incumbrancers and creditors whose names were not given in the bill had not been properly brought before the Court, because the bill had not been sworn to as the practice of the Court required. Afterwards, upon the demurrer of Davidson County to so much of the bill as prayed a sale of the N. & N. W. R. R., an oral argument by counsel upon
14 both sides was made upon all the points made in the demurrer, which will show for itself. We were unable to convince the Chancellor that our demurrer was well taken.

Both the N. & N. W. R. R. and the Edgefield and Kentucky Railroads lay partly within Davidson County, and had their chief offices in Nashville, in said County, though at the time the bill was filed for the sale of delinquent railroads, the Edgefield and Kentucky Railroad was in the hands of a State
15 Receiver and the N. & N. W. R. R. was being operated by a lessee of a State Receiver.

ED. BAXTER.

Subscribed and sworn to before
me, this September 11th, 1879.

E. R. Campbell,
Examiner.

16

Deposition of W. H. Osborn.

CIRCUIT COURT OF THE UNITED STATES, 1

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of internal improvement Bonds of Tennessee, issued to the MEMPHIS & CHARLESTON RAILROAD COMPANY, 2

vs.

THE MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.*

Testimony and proofs for final hearing on the part of the respondents, taken 3 before William H. De Lancey, Special Examiner, duly appointed herein, under and pursuant to the 67th Rule in Equity, as amended.

NEW YORK, February 13, 1880.

Parties met pursuant to notice.

Present.—Mr. W. Y. C. HUMES,
For Respondents. 4
MR. L. E. ANDREWS.
For Complainants.

WILLIAM H. OSBORN, a witness produced on the part of the respondents, being first duly cautioned

5 and sworn in the above-entitled suit to testify the
truth, the whole truth and nothing but the truth,
deposes and says:

(Deposition taken subject to all legal objections of both parties.)

Direct examination by Mr. **Humes**:

1 Q. What, if any, relation do you hold to any
of the railroads of Tennessee, and if yea, how long
have you held the same?

6 A. I was one of the Purchasing Committee that
purchased the Mississippi Central Railroad, under a
Decree of the Federal Courts in Tennessee and Mississippi.

2 Q. Do you know Peter Geddes; if so, how long have you known him?

A. Yes; I know him very well; have known him perhaps ten years.

3 Q. Did you ever have any conversation with
him touching the Tennessee State Bonds, and the
7 settlement of the purchasers of the Mississippi Cen-
tral Railroad with the State; if yea, when did these
conversations occur; and what did he say about
such settlement?

A. We purchased nearly twelve hundred bonds,
and when we had probably two-thirds in hand I
told Mr. Geddes we had bought the bonds and in-
tended to buy the whole amount for delivery to the
State, at which he seemed gratified, from the fact
that every bond paid off diminished the State debt
8 to that extent.

4 Q. Did you borrow from Mr. Geddes any State bonds to make up the amount to deliver to the State?

A. No; I did not borrow any from him.

5 Q. Did you apply to him to lend you bonds; if yea, what did he say when you made this application?

A. Towards the close of our purchases of State 9
bonds, and, I believe, when the State officer was
here, we decided not to use past due coupons, of
which there were fifty or sixty thousand dollars in
excess upon the bonds, but to buy from forty to
sixty bonds, so as to pay bond for bond. There
were no bonds offering in the market for a day or
two, and I asked Mr. Geddes if he would lend me
some bonds. Mr. Geddes said, to the best of my
recollection, that if the Tennessee bonds were his
personally he would do so with pleasure, but that 10
his block of bonds were the property of George
Smith, Esq., and that he would prefer not to break
bulk in the block if I could get along without it, or
words to this effect. I succeeded in purchasing the
bonds a day or two afterwards from other parties.

6 Q. What demand, or urgency, if any, did the State authorities bring to bear upon the purchasing committee to induce them to this settlement?

A. We bought the road from Canton, Miss., to
the Ohio River, knowing that the portion of the line 11
lying within the confines of the State of Tennessee
was in possession of the State authorities. The
State Receiver held on with a close grip; it was too
good a thing to give up; at any rate persuasion
would not do it. We all knew that we could not
make any money out of the whole line unless we
got that piece out of the hands of the State. They
understood our trouble just as well as we did without
feeling the pain, and intensified it by taking
our engineers and train men off the train at the north 12
boundary of Tennessee, having run only twenty-seven
miles, and then we had to have a new set waiting
at the south line of Tennessee, where their
men got off, thus firing at us at both ends. I had
no time to call upon the honorable gentleman at
Nashville, but as a railroad manager I knew that
we were day by day ground between two millstones,

13 and they would not let up unless we paid the debt and got the State lien discharged. The necessity was so exigent that we borrowed the money for the purpose, and got the road relieved from the encumbrance, and free from every recorded lien north of the south line of Tennessee.

7 Q. Did you make use of the acts of 1869 and '70 to get an assignment of the State lien to support bonds of the company issued to obtain the necessary funds?

14 A. We paid in 1,199 bonds, and we issued 1,199 bonds, and each bond bears an endorsement, certified by the Controller, transferring the lien of the State to the bond, as follows:

"STATE OF TENNESSEE, COMPTROLLER'S OFFICE.

I certify that the Chicago, St. Louis and New Orleans Railroad Company has this day liquidated the indebtedness of the Mississippi Central Railroad Company to the State of Tennessee for State bonds,
15 issued pursuant to law under the statutes of said State, to establish internal improvements, and that this bond is substituted for the same amount of indebtedness of the said railroad company to the said State, and the holder of the said bond is hereby subrogated to and secured by the lien held by said State, and to all other rights and remedies reserved by the State in the statutes upon the railroad and property of said Mississippi Central Railroad Company. This bond is one of eleven hundred and
16 ninety-nine bonds, and is executed and issued by virtue of law, takes the place of a bond of the State of Tennessee, and is a first mortgage bond.

November 28th, 1877.

(Sd.) JAMES L. GAINES,
Comptroller of the State of Tennessee."

8 Q. When was the new company formed; and

when was the mortgage of the company to support 17
the bond you have just explained executed?

A. The Chicago, St. Louis and New Orleans Railroad Company was formed on the 7th day of November, 1877, and the mortgage executed on the 8th November, 1877, and it was registered in each county on the line of the road as soon as practicable.

(Mortgage filed herewith and marked Respondent's Exhibit No. 1. W. H. De. L.' Sp'l Ex'r.) 18

(Receipt and certificate of the Governor and Secretary of State of Tennessee, also herewith filed, marked Respondents's Exhibit No 2. W. H. De. L., Sp'l Ex'r.)

9 Q. Did you sell those company substitution bonds in open market, on the faith of this assignment of the State lien and the mortgage just exhibited? 19

A. Yes; they sold at 10 to 15 per cent more than the market price of the other first mortgage bonds secured by the same mortgage in 1878.

Cross-examination by Mr. Andrews:

10 x Q. How many of the Tennessee State Bonds delivered to the State, as you have certified, were of the numbers issued by the State to your railroad company?

A. I don't know, and never had any occasion to 20
inquire.

11 x Q. Please produce from your books the numbers of the bonds so delivered?

A. I will endeavor to do so upon the return of our Secretary, now absent.

12 x Q. Were you not aware that in a suit that was pending in reference to the Mobile & Ohio Rail-

21 road, the question was presented as to the lien of
the Tennessee State Bonds upon the railroad to
which they were issued?

A. I read the newspapers and may possibly have read this, like other daily news. If this question has any legal bearing upon the question at issue, I wish to state that I have found from experience that this layman knows very little of law questions.

13 x Q. Did you not learn anything in reference to the lien of the State bonds from Mr. Geddes?

22 A. My esteemed friend Mr. Geddes never began
to moot the right of bondholders to crucify railroads
until he and his brother bondholders were defeated
in the Tennessee Legislature a year or two after we
settled with the State.

14 x Q. Did you go into this substitution scheme without any legal advice; and if you had such advice was it in writing or oral?

A. The counsel of the Purchasing Committee was
Hon. John A. Campbell, formerly Judge of the U.S.
23 Supreme Court; and the Hon. James Emott of New
York. Steps of this character are seldom taken
without the advice of counsel, and I suppose we had
a great many consultations on that subject. I am
not certain that we have any written opinion on this
subject, confined expressly to this subject.

15 x Q. Was not an opinion of Judge Campbell furnished in writing upon this subject?

A. I have no doubt that I asked Judge Campbell,
either in writing or verbally, if we could have
24 the substitution of the State of Tennessee; and that
we were safe in paying out a large sum of money to
secure this right; and that when he and Judge
Emott prepared the papers and documents for my
signature I executed them.

16 x Q. Did you not have these substitution bonds placed on the New York Stock Exchange after the commencement of these suits of Stevens *v.* the Chi-

cago, St. Louis & New Orleans Railroad Company, 25
and others now pending?

A. The application to the Stock Exchange bears date April the 21st, 1879; the Tennessee Lien Bonds were sold previously.

17 x Q. Did you ever hear of any legal opinion to the contrary of the views of Judge Campbell on this question?

A. I have heard legal opinions, but whether they were based upon actual business I did not know,
and therefore I only attached importance to such 26
an opinion as was based upon actual business.

18 x Q. Did you not hear of the opinion of Charles O'Conor?

A. I have seen it.

19 x Q. What was the lowest price you paid for the Tennessee State Bonds purchased, as you have testified, and also the average price?

A. I don't remember, but may ascertain from the books; but I decline to furnish it, as the books re-
ferred to are those of the Illinois Central R. R. Co. 27

(Complainant's counsel requests witness to produce the same.)

(Witness declines, unless ordered by the Court to do so.)

Cross-examination suspended.

Re-direct:

20 Q. At what period or year did you sell the 28
Substitution Bonds of the Company?

A. We sold them at the close of 1877, and during 1878, except $100,000 sold in 1879; ten hundred and ninety-nine thousand were sold in 1877 and 1878, and $100,000 in 1879, in November.

21 Q. In answer to cross-question 13, do you not intend to say that Mr. Geddes did not begin to as-

29 sert in your hearing that a lien existed in favor of
State Bonds on Railroads to which they were issued?

A. Yes; that was the time when he began to talk to me on that subject.

Re-cross:

22 x Q. To whom were the subrogated bonds sold in 1877 and 1878?

A. To five or six parties; I can get their names
30 from the books; to Mr. Sturges, Mr. Cutting, the
Illinois Central Company, Sidney Webster, E. H.
Harriman & Co., and others.

23 x Q. Are not the Mr. Sturges and Mr. Cutting you have referred to directors of the Illinois Central R. R. Co.?

A. Yes.

24 x Q. Does not the Illinois Central R. R. Co. own a majority of the stock of the Chicago, St. Louis & New Orleans R. R. Co.?

31 A. Yes.

25 x Q. You were also a purchaser of these bonds?

A. I hold some of these bonds which I purchased through brokers.

26 x Q. You have referred to the claims of the
Tennessee State bondholders as not presenting any
ground of right, or any obstacle to the carrying out
the substitution scheme; please explain these words
contained in the recital of the second mortgage of
the Mississippi Central R. R, Co., and state what
32 notice you derive therefrom of the position of the
State bonds of Tennessee: "And whereas, the State
of Tennessee advanced to said company five hundred
and seventy-four thousand dollars of its six per cent.
bonds to aid in constructing that part of said company's road between the northern boundary of the
State of Mississippi and the city of Jackson, in
Madison County, Tennessee; which bonds consti-

tute a first lien on that part of said company's road 33
and equipments within the State of Tennessee."
Are you not President of the Chicago, St. Louis &
New Orleans Railroad Company; is not the Mississippi Central a part of the line of road owned by that company; are there not bonds outstanding under the mortgage from which the above extract was taken?

(Objected to, because the first sentence
assumes that the witness has stated a fact 34
which he has not. Secondly, the question seeks from the witness his opinion as to the construction of an instrument not in proof, and is irrelevant and incompetent.)

A. I am President of the Chicago, St. Louis
& New Orleans R. R. Co., of which the old Mississippi Central forms a part; and there are bonds outstanding of that mortgage. The extract read is
in the mortgage. I have known of that mortgage 35
for five years; have examined it frequently, and have consulted at least six able lawyers on the subject of this second mortgage. No one of them ever understood it. Amongst other anomalies is the authority conferred upon the President to make the date of maturity of any one bond, by endorsement, at his pleasure, or the time or place of payment at his pleasure; and through that power, some of the bonds were made payable next day. I shall not at-
tempt to construe any part of this perplexing mort- 36
gage. As to the particular question you have asked, I have never studied the paragraph or had my attention called to it before.

The witness further says: That on examination I find that we borrowed the bonds of the Illinois Central Railroad, and paid them in substitution bonds at a later date.

29 sert in your hearing that a lien existed in favor of
State Bonds on Railroads to which they were issued?

A. Yes; that was the time when he began to talk to me on that subject.

Re-cross:

22 x Q. To whom were the subrogated bonds sold in 1877 and 1878?

A. To five or six parties; I can get their names
30 from the books; to Mr. Sturges, Mr. Cutting, the
Illinois Central Company, Sidney Webster, E. H.
Harriman & Co., and others.

23 x Q. Are not the Mr. Sturges and Mr. Cutting you have referred to directors of the Illinois Central R. R. Co.?

A. Yes.

24 x Q. Does not the Illinois Central R. R. Co. own a majority of the stock of the Chicago, St. Louis & New Orleans R. R. Co.?

31 A. Yes.

25 x Q. You were also a purchaser of these bonds?

A. I hold some of these bonds which I purchased through brokers.

26 x Q. You have referred to the claims of the
Tennessee State bondholders as not presenting any
ground of right, or any obstacle to the carrying out
the substitution scheme; please explain these words
contained in the recital of the second mortgage of
the Mississippi Central R. R, Co., and state what
32 notice you derive therefrom of the position of the
State bonds of Tennessee: "And whereas, the State
of Tennessee advanced to said company five hundred
and seventy-four thousand dollars of its six per cent.
bonds to aid in constructing that part of said company's
road between the northern boundary of the
State of Mississippi and the city of Jackson, in
Madison County, Tennessee; which bonds consti-

tute a first lien on that part of said company's road 33
and equipments within the State of Tennessee."
Are you not President of the Chicago, St. Louis &
New Orleans Railroad Company; is not the Mississippi Central a part of the line of road owned by that company; are there not bonds outstanding under the mortgage from which the above extract was taken?

> (Objected to, because the first sentence
> assumes that the witness has stated a fact 34
> which he has not. Secondly, the question seeks from the witness his opinion as to the construction of an instrument not in proof, and is irrelevant and incompetent.)

A. I am President of the Chicago, St. Louis & New Orleans R. R. Co., of which the old Mississippi Central forms a part; and there are bonds outstanding of that mortgage. The extract read is
in the mortgage. I have known of that mortgage 35
for five years; have examined it frequently, and have consulted at least six able lawyers on the subject of this second mortgage. No one of them ever understood it. Amongst other anomalies is the authority conferred upon the President to make the date of maturity of any one bond, by endorsement, at his pleasure, or the time or place of payment at his pleasure; and through that power, some of the bonds were made payable next day. I shall not at-
tempt to construe any part of this perplexing mort- 36
gage. As to the particular question you have asked, I have never studied the paragraph or had my attention called to it before.

The witness further says: That on examination I find that we borrowed the bonds of the Illinois Central Railroad, and paid them in substitution bonds at a later date.

37 27 x Q. Did you not ask Mr. Geddes to buy some of the substitution bonds?

A. I think it very probable that I did.

28 x Q. Did he not refuse to purchase them on the ground that the Tennessee State bonds were a lien on the road?

A. He refused to buy them. I believe his chief
objection was that he had as many Southern secur-
ities as he wanted; he had got through with those
States down there. He has indulged in a good deal
38 of conversation in relation to the lien of the State,
but at which time he put forth his lien, or at which
time he expressed his anxiety to get out of South-
ern securities, I can't tell.

29 x Q. Did not Mr. Geddes tell you about the Mobile and Ohio case, and its involving the question of the lien of the State bonds on the railroads?

A. Yes; he has talked about the Mobile and Ohio case, and a great many other cases affecting the bond question.

39 30 x Q. Did you not show Mr. Geddes Judge Campbell's opinion?

A. I don't remember to have done so. If Mr. Geddes remembers my showing him any of Judge Campbell's letters, it is undoubtedly so.

31 x Q. Could the Tennessee section of your road pay this claim of the bondholders in case of their success?

A. If it was managed by the governor and other
officers of Tennessee as it was before, it undoubted-
40 ly could. It was managed as local road; they
charged arbitrary rates.

32 x Q. Do I understand you that there are no mortgages or encumbrances upon this Tennessee section other than this substitution mortgage?

A. The foreclosure proceedings wiped out the old mortgage of the old company, and I am informed there is no recorded mortgage in Tennessee.

Re-direct: 41

33 Q. What did you say of Mr. Douglas' opinion in reply to verbal interrogatories of complainant's counsel?

A. John M. Douglass was the general solicitor and president of the Illinois Central Company for many years. That company owned a large amount of the consolidated bonds in default. At the instance of the directors, Mr. Douglas went south, and examined the property and procured copies of all recorded papers, and upon his return enumerated, 42 among other points to be attained by the purchase of the road, he could pay off the Tennessee bonds and discharge the debt, purchasing the Tennessee State bonds at a discount.

Re-cross:

34 x Q. Was not that advice that you should purchase the Tennessee State bonds that were liens on your road? 43

A. No, sir; Mr. Douglass was well assured we had the right to purchase any bonds of that State.

35 x Q. Has not Mr. Douglas lately, and since reading Charles O'Conor's opinion, stated that the Tennessee State bondholders had liens upon the railroads, and that in his judgment they would succeed in enforcing them in these suits?

A. I have not seen Mr. Douglas but once for several years; have had no communication with him on this subject, and never heard the effect of O'Conor's opinion on him. 44

Adjourned to further notice.

45 NEW YORK, February 18, 1880.

Cross-examination continued:

36 x Q. Have you not purchased the Chicago, St. Louis & New Orleans Tennessee lien bonds since the commencement of this suit?

A. I purchased one for a poor widow last month; I purchased another for another widow the month before; I bought 20 for myself a few months ago; I bought 10 as a guardian for a trust fund.

46 37 x Q. Did you not say to Mr. Peter Geddes that at any rate your Company was very fortunate to have so few of the numbers of the Tennessee Bonds issued to your road now outstanding?

A. Yes; Mr. Geddes' affliction and grief on his ownership of an immense number of Tennessee Bonds, which cost him about par years ago, made our burden light in comparison.

38 x Q. Are there any bonds outstanding of the consolidated mortgage of the Mississippi Central
47 Railroad Company, executed May 1, 1872; and how many were issued?

A. The mortgage was for $8,000,000, and $3,000,000 were issued; the mortgage was foreclosed, and the property is now held under that foreclosure.

39 x Q. Are you not an officer of the Chicago, St. Louis & New Orleans Railroad Company, which so holds the property?

A. Yes; the President.

40 x Q. Have you not read that mortgage and the
48 following clauses thereof: "Whereas the Mississippi Central Railroad Company has now outstanding bonds and obligations in the aggregate amounting to four millions and six hundred and twenty-nine thousand dollars, which constitute a lien upon the whole or some portions of its railroad and property, described as follows * * * :

One million two hundred and seventy-nine thousand dollars for bonds advanced to it by the State of Tennessee which the Company is bound to pay and which are a lien upon its property by virtue of an act of the Legislature of Tennessee, entitled "An act to establish a system of internal improvements in this State," passed the 11th day of February, A. D. 1852? 49

A. We did not execute that mortgage; the mortgage was executed by H. S. McComb, President of the Mississippi Central Railroad Company; we are 50 now entirely satisfied that the recitals in that mortgage were incorrectly made, and have instituted proceedings in the State of Mississippi, and also in this Second Circuit, calling upon H. S. McComb, among other things, to explain that recital; and particularly to show what was done with the large amount of Tennessee State Bonds which, according to the statutes, could only be applied to the construction of the road; when these suits terminate I hope to be able to answer your question. 51

41 x Q. Did not your Company obtain the opinion of William Tracy, Esq., of the New York bar, in reference to the validity of the consolidated mortgage, and did he not in that opinion refer to the act of the Tennessee Legislature, passed on February 3, 1871, as containing the following words: "That nothing herein contained shall be construed in any way to impair or diminish the priority of the State's lien upon the property which may be mortgaged, as herein provided for, and, expressly, bonds which 52 have been or hereafter may be given by the State, shall be and remain a first lien on all the property of every description of the railroad company to which such bonds may have been given?

A. Our company, the Chicago, St. Louis & New Orleans Railroad Company, did not ask Mr. Tracy's opinion; there was no reference to that mortgage

53 after the purchase of that property subject only to priorities.

42 x Q. Were not the proceedings for the consolidation of the constituent companies into the New Orleans, St. Louis & Chicago Railroad Company delivered to the Secretary of State of Tennessee on the 10th of July, 1874 ?

A. The records and books of the old company are in the possession of H. S. McComb; we are demanding the same in three different lawsuits; I have not
54 personal or official knowledge of the facts you ask for.

43 x Q. When did the Chicago, St. Louis & New Orleans Company borrow the Tennessee State Bonds from the Illinois Central Railroad Company ?

A. Early in November, 1877.

Re-direct :

44 Q. What did you mean by saying that the State of Tennessee made you pay off the State lien ?

55 A. We had to operate the road from Cairo to New Orleans as an entirety; we applied on the road beyond the confines of the State all the earnings and a large amount of money for the purpose of improving the road and making it safe for life and property. But the State authorities would not pursue this course, and took the surplus, beyond the payment of employes, into the State Treasury, keeping the road in a very wretched condition physically; therefore as railroad men we could not operate that bad piece
56 in the middle of it; the State of Tennessee practically had the power to make us pay the State, and they did so.

W. H. OSBORN.

Subscribed and sworn to before
me, this 18th day of Feb., 1880.

WILLIAM H. DE LANCEY,
Special Examiner.

I, William H. De Lancey, Special Examiner, 57
duly appointed by the Circuit Court of the United
States for the Western District of Tennessee, to take
the testimony and proofs of both parties in the
above-entitled suit, in the city of New York, do hereby
certify that on the several days named in the deposition
hereto annexed, I was attended at my office,
No. 52 Broadway, in the city of New York, by the
counsel and witness aforesaid. That the said witness
was duly cautioned and sworn in the above-
entitled suit and examined, and the deposition was 58
reduced to writing and read to the witness, and by
him subscribed in my presence, and that the Exhibits
hereto annexed, marken "Respondent's Exhibit
No. 1, W. H. D. L., Sp'l Ex'r," and "Respondent's
Exhibit No. 2, W. H. D. L., Sp'l Ex'r," were
introduced in evidence in said cause during the
taking of said deposition.

Dated Feb. 18, 1880.

WILLIAM H. DeLANCEY.

59

60

61 RESPONDENTS' EXHIBIT, NO. 1.

W. H. D. L., Spl. Exr.

CHICAGO, ST. LOUIS & NEW ORLEANS R. R. CO.
FIRST MORTGAGE
FOR
$13,000,000.
TO

62 A. SCHREIBER,
JAMES FENTRESS,
LEWIS V. F. RANDOLPH } *Trustees.*

NOVEMBER 8TH, 1877.

THIS INDENTURE, made this 8th day of November, Anno Domini one thousand eight hundred and seventy-seven, between the Chicago, St. Louis and New Orleans Railroad Company, of the first part;
63 the New Orleans, Jackson and Northern Railroad Company, of the second part; the Central Missippi Railroad Company, of the third part, and Adolph Schreiber, of the City of New Orleans, in the State of Louisiana, James Fentress, of Bolivar, in the State of Tennessee, and Lewis V. F. Randolph, of the City of New York, in the State of New York, Trustees, of the fourth part:

Whereas, A certain corporation, known as the
64 New Orleans, Jackson and Great Northern Railroad Company, organized under the laws of the States of Louisiana and Mississippi, heretofore owned and operated a certain railroad, extending from the City of New Orleans, in the State of Louisiana, to Canton, in the State of Mississippi, together with a branch thereof known as the Kosciusko Branch, from a point at or near Durant, in the State of Mis-

sissippi, to Kosciusko, in the said State of Mississippi, and with the right to construct and operate certain other branches and extensions, with the depot grounds, buildings, machinery and other property to said railroad appertaining, being part of the railroad and property hereby intended to be mortgaged and conveyed; 65

And whereas, The said New Orleans, Jackson and Great Northern Railroad Company, on or about the twelfth day of June, 1856, motgaged and conveyed in trust to one James D. Denegre, its road aforesaid, made and to be made, from the City of New Orleans, in the State of Louisiana, to Canton, in the State of Mississippi, with the appurtenances, to secure the payment of certain of its corporate bonds to the extent of three million of dollars; 66

And whereas, Certain of such bonds were afterwards issued under said mortgage, two thousand nine hundred and forty-one, of which are now outstanding and unpaid, amounting to two millions nine hundred and forty-one thousand ($2,941,000) dollars; 67

And whereas, Subsequently to the making of said first mortgage, to wit: On the first day of October, 1860, the said New Orleans, Jackson and Great Northern Railroad Company, for the purpose of securing the payment of an additional and subsequent issue of its corporate bonds, to a further amount, not exceeding three millions of dollars, did also mortgage and convey in trust to the said James D. Denegre its line of road, made and to be made, from the City of New Orleans to Canton, in the State of Mississippi, and from Canton to Aberdeen, in said State of Mississippi, together with the appurtenances; 68

69 *And whereas*, Certain of such bonds were afterwards issued under said second mortgage, fifteen hundred of which are now outstanding and unpaid, amounting to one million five hundred thousand ($1,500,000) dollars;

And whereas, Afterwards the said New Orleans, Jackson and Great Northern Railroad Company failed to pay the coupons or interest warrants upon said first and second mortgages, and certain of the 70 said coupons, with all liens, rights and equities attaching thereto under said mortgages, were purchased by third parties, to the amount of three hundred and forty thousand ($340,000) dollars of such coupons, due and unpaid upon the said first mortgage, and of one hundred and sixty thousand ($160,000) dollars of such coupons, due and unpaid upon the said second mortgage, of said New Orleans, Jackson and Great Northern Railroad Company.

71 *And whereas*, The said New Orleans, Jackson and Northern Railroad Company, party hereto of the second part, on the fifteenth day of August, 1877, made an issue of its corporate bonds, known as Matured Coupon Bonds, to the extent of five hundred thousand dollars, to provide for the postponement of the payment of the said three hundred and forty thousand dollars ($340,000) coupons due and unpaid upon the first mortgage of the New Orleans, Jackson and Great Northern Railroad Company, and of 72 the said one hundred and sixty thousand dollars ($160,000) coupons due and unpaid upon the second mortgage of the said New Orleans, Jackson and Great Northern Railroad Company; and to further secure said matured coupon bonds, did also mortgage and convey in trust to William H. Gebbard and Lewis V. F. Randolph, both of the city of New York, its line of road, made and to be made,

from the city of New Orleans to Canton in the State 73
of Mississppi;

And whereas, all of such coupons are still unpaid, and said Matured Coupon Bonds are now outstanding, to said amount of five hundred thousand dollars;

And whereas, a certain corporation known and
designated as the Mississppi Central Railroad Company
was chartered and incorporated by the Legislature
of the State of Mississippi, by an act passed 74
on the tenth day of March, 1852, for the purpose of
building and operating a railroad from the town of
Canton, heretofore mentioned, in said State of Mississippi,
to the north line of said State, and said
corporation proceeded in the construction of said
railroad;

And whereas, afterwards, a certain other railroad
corporation, known and designated as the Mississippi
Central and Tenessee Railroad Company, was 75
chartered and incorporated by an act of the Legislature
of the State of Tennessee, passed on the
thirtieth day of November, 1853, and was authorized
by said act to consolidate and form one corporation
with the Mississippi Central Railroad Company,
hereinbefore mentioned;

And whereas, the said State of Tennessee, under
and by virtue of its Generai Internal Improvement
Laws, and of other acts amendatory thereof and 76
supplementary thereto, thereto, theretofore passed
and then in full force, loaned to the said Mississippi
Central and Tennessee Railroad Company, or
advanced for its benefit Bonds of the State of Tennessee
to the aggregate amount of five hundred and
seventy-four thousand ($374,000) dollars, by virtue
of which Bonds and upon the issuance thereof

77 under and pursuant to the statutes authorizing such issuance of Bonds, the said State of Tennesssee became invested, without deed from the Railroad Company, with a lien in the nature of a mortgage upon the entire Road built or to be built by said corporation in the State of Tennessee, with all its equipments and appurtenances, prior to any mortgage made or to be made by the said corporation, as security to indemnify and save harmless the said State, on account of the issuance and for the pay-
78 ment of the principal and interest of its said Bonds so issued to said corporation ;

And whereas, afterwards and in pursuance of certain acts of the Legislatures of the States of Mississippi, Tennessee and Kentucky, the said Mississippi Central and Tennessee Railroad Company and the said Mississippi Central Railroad Company were consolidated and made into one corporation, under the name of the Mississippi Central Railroad Company,
79 by the agreement and consent of the Stockholders thereof, and were authorized to continue and complete the construction of the Railroad from Canton in the State of Mississippi aforesaid, through the States of Tenessee and Kentucky, to a point on the Ohio River opposite to Cairo in Illinois, and to operate the same, and the said corporation, thereafter known as the Mississippi Central Railroad Company, did proceed to construct and to operate said Railroad ;

80 *And whereas*, under and by virtue of the acts aforesaid, and certain other acts of the Legislature of the State of Tennessee, certain other Bonds of said State to the amount of $550,000, were issued to the said Mississippi Central Railroad Company, for the purpose of aiding in the construction and completion of the said Road in the State of Tennessee, and previous to the construction and

completion thereof, and under and by virtue of the 81
General Internal Improvement Laws, and the acts amendatory thereof and supplementary thereto, pursuant to which said bonds were issued, a lien was reserved to the said State upon the entire road in the State of Tennessee—with all its superstructure, equipments and appurtenances, and all property owned by the Company, and all depots and stations, and assets attached thereto, lying within the limits of said State, in the nature of a mortgage
lien, without deed, prior to the lien of any mort- 82
gage executed or to be executed by the said Company, to indemnify and save harmless the said State of Tennessee, for the issuance and against the payment of the principal and interest of the said last mentioned amount of five hundred and fifty thousand dollars of its Bonds, so as aforesaid issued to or for the benefit of the said Mississippi Central Railroad Company;

And whereas, said Mississippi Central Railroad
Company having been made to pay and re-imburse 83
to the said State of Tennessee, a certain amount of the interest which had accrued, and which the State had paid upon its Bonds so as aforesaid issued to the Mississippi Central and Tennessee Railroad Company, certain acts were passed by the Legislature of the State of Tennessee, by which the balance due from the Mississippi Central Railroad Company for such interest, having been paid by the said State of Tennessee by issuing other of its
Bonds, was charged as principal, and in all respects 84
the said State was entitled by virtue of the payment thereof, and the issuance of said Bonds therefor, to the same rights and liens for the same which were created by the acts authorizing the original issue of the Bonds to said Railroad Companies; which interest, so converted into principal, and for which the said State of Tennessee, became and is entitled to a

85 like first lien upon the Railroad and property of the Mississippi Central Railroad Company within said State, amounts to seventy-five thousand one hundred and eighty ($75,180) dollars.

And whereas, by virtue of the payments or advances aforesaid, the State of Tennessee and its assigns, as hereinafter mentioned, became entitled to, and does hold a first and paramount lien in the nature of a first mortgage upon all the property which was of the said Mississippi Central Railroad Company, so called after the consolidation aforesaid, 86 within the said State of Tennessee, to the extent and amount of one million one hundred and ninety-nine thousand one hundred and eighty ($1,199,180) dollars besides interest;

And whereas, by an Act of the Legislature of said State of Tennessee, passed on the twenty-fifth day of February, 1869, and by other acts amendatory thereof and supplementary thereto, it was enacted, 87 among other things, that the respective Railroad Companies, or either of them that had created indebtedness to the said State, were authorized to repay any amount of the principal of such indebtedness in the Bonds of the State, and that any such Railroad Company repaying any such indebtedness, might issue Bonds to an equal amount with the Bonds of the State paid and delivered up as thereby provided, which said Bonds so issued in lieu of any equal amount of said State Bonds, should 88 be certified by the Comptroller of said State, and should be and possess a lien *pro rata* in amount and of equal validity and effect with the State indebtedness upon such Railroad, and all its property within the State of Tennessee; and farther, that any person or persons, with the consent and approbation of any Railroad Company which should be indebted to the State of Tennessee, and upon whose property the State of Tennessee might 89 hold a lien, might pay the said State debt, so far as the State is concerned, in the Bonds of the State, or any coupons of Bonds at par, and the person or persons so paying the debt of such Railroad Company, with the consent of such Company, should be entitled to have and hold all the lien or liens which the State of Tennessee had or has, upon said Railroad or its property, and the same right and power to enforce the same which the State of Tennessee had ; 90

And whereas, in and by a Decree of the Circuit Court of the United States for the District of Tennessee, made and entered at Memphis, on the sixth day of January, 1877, in a suit in Chancery commenced by the Trustees of the consolidated mortgage of the Mississippi Central Railroad Company hereinafter mentioned, for the foreclosure of said mortgage, and for authority and direction to sell and convey the Railroad and franchises of the said Mississippi Central 91 Railroad Company, in satisfaction of said consolidated mortgage, it was by the said Court ordered, adjudged and decreed, that the said Trustees and their assigns are entitled, as representing the said Mississippi Central Railroad Company, to settle the claim and take and receive a transfer of the lien of the State of Tennessee ;

And whereas, the said Chicago, St. Louis and New Orleans Railroad Company has become the assignee and grantee of said Trustees in said decree 92 named, and of all their rights and privileges in that behalf, and also the successor as hereinafter stated of said corporation known as the Mississippi Central Railroad Company, and of all its powers, rights, privileges and franchises, with the right in case of payment of said Tennessee Bonds to issue and sub-

93 stitute its own bonds with all the liens and rights held by the State of Tennessee;

And whereas, the said party of the first part by virtue of the premises, is invested with the rights, powers, faculties and property of the Trustees aforesaid, under said deed of trust, and the decrees of the said Court above mentioned, and also possessed of the property described in said deed and decree subject to the mortgages and liens thereon, and by
94 reason thereof is interested to settle with the State of Tennessee the debt created by the advance of its said Bonds in the manner authorized by said State; and, in order to maintain and continue the lien created by the acts aforesaid, and reserved and held by the State of Tennessee on said property within said State, so as to enable said Company to effect such settlement, the said Chicago, St. Louis and New Orleans Railroad Company, by Resolution of its Board of Directors, duly consented, and has filed
95 such consent, executed under its corporate seal, in the office of the Treasurer of said State of Tennessee, that the said parties of the fourth part,—as Trustees for the Bonds to be issued in substitution for said Tennessee State Bonds, as hereinafter set forth, or the purchasers and holders of such bonds, —may make payment of such State Bonds to the State of Tennessee, according to said Statutes, and may receive agreeably to the same a transfer of the lien of said State, and so become invested as author-
96 ized by said acts, with the first lien upon all said Railroad and property in the State of Tennessee, theretofore held by said State as aforesaid, and have and hold all the liens of said State and all right and power to enforce the same, which the State of Tennessee has or had, so that the holders of said Bonds and the said Trustees in their behalf shall be placed in the same position in all respects and have all the

rights, and the same power to enforce the same, 97
which the State of Tennessee has or had before such transfer;

And whereas, the said Mississippi Central Railroad Company, for the purpose of improving and completing its Line of Railroad, on or about the first day of November, 1854, made and executed a mortgage or deed of trust to Charles Butler, Azariah C. Flagg and Jacob Thompson, to secure the payment
of its corporate Bonds to an amount not to exceed 98
one million three hundred and fifty thousand ($1,350,000) dollars, whereby it mortgaged and conveyed all its Railroad constructed, or to be constructed in the State of Mississippi, with its property and appurtenances;

And whereas, Bonds were issued under said Mortgage, and are now outstanding and unpaid to an amount not precisely and accurately known, but not exceeding nine hundred and ninety-two thousand ($992,000) dollars; 99

And whereas, subsequently to the making and execution of said first mortgage, to wit, on the first day of November, 1865, the said Mississippi Central Railroad Company, made and executed a second mortgage or deed of trust to Jacob S. Rogers, M. P. Mathison and William L. Sharkey, for the purpose of securing the payment of an additional issue of its corporate Bonds, to an
amount not to exceed two millions ($2,000,000) of 100
dollars;

And whereas, Bonds have been issued under said second mortgage, and are now outstanding to an amount which is not definitely accurately known and ascertained, but which does not exceed one million nine hundred and ninety-seven thousand ($1,999,000) dollars;

101 *And whereas*, afterwards, the said Mississippi Central Railroad Company failed to pay certain coupons for interest upon its second mortgage aforesaid, and certain of said coupons were purchased and are now held by third parties, and the holders of certain other of said coupons agreed to extend the time for payment thereof, for which agreement of extension and for the preservation of which rights, certain scrip was issued by said Mississippi Central Railroad Company, which said coupons
102 and scrip and other debts alleged to be liens upon so much of the railroad and property of said corporation as is covered by said second mortgage, amount in all to not more than one million two hundred and twenty-one thousand ($1,221,000) dollars, the precise total thereof not being accurately or definitely known;

And whereas, afterwards, the New Orleans, Jackson and Great Northern Railroad Company, herein-
102 before mentioned, made and executed a certain other mortgage or deed of trust, being a consolidated mortgage upon its entire railroad and property, under which certain bonds were issued; and the said Railroad Company having made default in payment of interest upon its said last mentioned bonds, and thereupon the principal thereof, by virtue of the terms and conditions thereof, and of the mortgage or deed of trust securing the same, having become absolutely and entiely due and payable,
104 such proceedings were had for the foreclosure of said mortgage, that the railroad property, rights and franchises of the said New Orleans. Jackson and Great Northern Railroad Company, were afterwards sold under and by virtue of the power in said mortgage or deed of trust contained, and of a decree in that behalf rendered by the Circuit Court of the United States for the District of Louisiana, and

purchased by and on behalf of certain holders of the 105
bonds of said Company, issued under said consolidated mortgage;

And whereas, afterwards, the said bondholders and purchasers, under and by virtue of statutes of the States of Mississippi and Louisiana, did organize and incorporate themselves by the corporate name and title of the New Orleans, Jackson and Northern Railroad Company, and received a deed and transfer of said Railroad, and became the 106
owners under and according to the statutes aforesaid, of all the rights, franchises, railroad, rights of way, superstructure and other property which had been of the New Orleans, Jackson and Great Northern Railroad Company, with all privileges and immunities appertaining to the property or franchises so sold and purchased, and all powers and franchises of said Company in as full and complete manner as the said New Orleans, Jackson and Great Northern Railroad Company was entitled to the 107
same by law, and as fully and perfectly as if the said New Orleans, Jackson and Northern Railroad Company had been granted a charter of incorporation in the very words of the act or acts under which the New Orleans, Jackson and Great Northern Railroad Company existed, owned and operated its said railroad, and held and exercised its rights, privileges and franchises;

And whereas, also, the said Mississippi Central 108
Railroad Company, hereinbefore mentioned, for the purpose of completing and extending its railroad to the Ohio River, made and executed a certain consolidated mortgage or deed of trust on or about the first day of May, one thousand eight hundred and seventy-two, under which consolidated mortgage or deed of trust, certain bonds or obligations

109 of the said Mississippi Central Railroad Company were issued :

And whereas, the said Mississippi Central Railroad Company afterwards failed and made default in the payment of its coupons for interest upon said consolidated mortgage bonds ; and thereafter, according to the provisions of said bonds, and of said mortgage or deed of trust securing the same, such proceedings were had that under and by virtue of the power created and conferred by the said mort-
110 gage or deed of trust, and in pursuance of decrees rendered in the Circuit Courts of the United States in the Districts of Tennessee, Mississippi and Kentucky, all the property described in said decrees, and in the deed of trust aforesaid, being the railroad of the said Mississippi Central Railroad Company, extending from Canton in the State of Mississippi, through the States of Mississippi, Tennessee and Kentucky, to a point on the Ohio River opposite Cairo, with all franchises, rights, and appurtenances thereto
111 belonging, and all the franchises, rights and privileges of the said corportion were sold by the trustees in said mortgage or deed of trust mentioned, under the direction of a Master appointed by the Court, and purchased by certain holders of the bonds issued under the said mortgage ;

And whereas, afterwards the said bondholders and purchasers, under and in pursuance of acts of the Legislatures of the States of Mississippi, Tennessee and Kentucky, organized and became incorporated
112 for the purpose of holding, owning and operating the said railroad under the name, title and designation of the Central Mississippi Railroad Company, and by virtue of the said acts of the Legislatures aforesaid, and of deeds and conveyances, became, and were invested with the absolute title to said railroad and property, real and personal, and the same right to operate the said railroad in the said

States as the Mississippi Central Railroad Company 113
had, and with all rights, privileges and immunities
appertaining to the property and franchises so sold
and purchased, and granted and conveyed to them,
as fully and completely as the said Mississippi Central Railroad Company was, or had been, and with
all the rights, privileges, immunities and franchises
held by the said Mississippi Central Railroad Company, by or under any acts of the Legislatures of
the States aforesaid, as fully and perfectly as if the
said Central Mississippi Railroad Company had been 114
granted a charter of incorporation in the very words
of the acts under which the Mississippi Central Railroad Company had existed, and claimed and exercised such powers and privileges ;

And whereas, for the better and more convenient
operation of the said railroads, and the protection of
the parties interested therein, and in the Bonds secured by said prior mortgages thereon, and in order
to form one continuous line of railway from the City 115
of New Orleans aforesaid, to the Ohio River opposite the terminus of the Illinois Central Railroad at
Cairo, under a single control and ownership, it was
determined and agreed to consolidate and unite the
said two Railroad Companies known as the New
Orleans, Jackson and Northern Railroad Company
and the Central Mississippi Railroad Company,
which had so as aforesaid become the owners of the
said two railroads, together constituting such continuous line from the city of New Orleans to the 116
Ohio River ;

And whereas, an agreement for such consolidation,
dated the 7th day of November, A. D. 1877, has
been duly executed by the said two corporations, and
ratified and assented to by the stockholders thereof
(and has become valid, final and effectual in all the
States in which the same is authorized and per-

117 mitted by the statutes thereof, and is intended to be perfected, ratified and confirmed in all the States through which the said railroad passes) in order that the said two corporations may become merged and consolidated in the corporation known as the Chicago, St. Louis and New Orleans Railroad Company, the party hereto of the first part;

And whereas, by virtue of said agreement of consolidation, the corporation, party of the first part to these presents, and known as the Chicago, St. Louis 118 and New Orleans Railroad Company, a corporation formed by the union and consolidation of parties of the second and third parts hereto, is intended to own and operate the Railroad so as aforesaid extending from the City of New Orleans, to the Ohio river opposite Cairo, with all branches and extensions thereof, made or to be made, and with all the appurtenance, franchises and rights of way appertaining thereto, which were of the said two corporations so consolidating, or which heretofore belonged 119 to the corporations hereinbefore mentioned, known as the New Orleans, Jackson and Great Northern Railroad and the Mississippi Central Railroad Companies:

And whereas, the said Chicago, St. Louis and New Orleans Railroad Company, and the parties interested in the said line of Railroad, have been advised and have determined that it is expedient and desirable to consolidate and pro- 120 vide for the existing liens upon the said line of road, or the several portions thereof hereinbefore recited, and to provide in addition the means for continuing and completing, and further equipping and perfecting such line of railroad between New Orleans and the Ohio River as aforesaid, and for that purpose the Directors of said Chicago, St. Louis and New Orleans Railroad Company, at a

meeting held on the eighth day of November, one 121
thousand eight hundred and seventy-seven, did pass certain resolutions of the tenor and effect following:

Resolved, That the President and Treasurer of this Company be authorized to execute from time to time, as shall be required to effectuate the purposes of these Resolutions, thirteen thousand Bonds of this Company, to be numbered consecutively from number one to number thirteen thousand inclusive, 122
each Bond to be for one thousand dollars, payable on the first day of November, one thousand eight hundred and ninety-seven, bearing interest at the rate of seven per cent. per annum, payable semi-annally at the office of the Company in the City of New York, and the interest and principal payable in lawful money of the United States of America; that the President be authorized and instructed to secure the payment of said Bonds and interest thereon by a deed of mortgage, and for that purpose to exe- 123
cute and affix the seal of this Corporation, and his signature as President, to a mortgage or deed of trust of the Railroad and franchises of this Company, including all its personal and real estate, and all its property movable and immovable, now owned or hereafter to be acquired, and its rights and franchises in the States of Louisiana, Mississippi, Tennessee and Kentucky to Adolph Schreiber of the City of New Orleans in the State of Louisiana, James Fentress of Bolivar in the State of Ten- 124
nessee, and Lewis V. F. Randolph of the City of New York in the State of New York, as Trustees:

Resolved, That numbers one to one thousand one hundred and ninety-nine inclusive of said Bonds, shall be set apart to provide, under the acts of the State of Tennessee, for and to be substituted for the Bonds of the State of Tennessee, issued to the Mis-

125 sissippi Central and Tennessee Railroad Company, and the Mississippi Central Railroad Company, to be registered and certified pursuant to said statutes of said State of Tennessee, by the Comptroller thereof, and to be issued to the party or parties paying the lien of the State, or to furnish the means to pay and satisfy said lien, and to be entitled to and in fact become, and as provided by the acts of the State of Tennessee aforesaid, a lien in the nature of a first mortgage upon the property of this Company
126 in the State of Tennessee, the same precisely as is now declared to exist in favor of said State, under and by virtue of the statutes thereof in pursuance of which the loan and advance of State Bonds was made to the Company or Companies, of whose rights and property this Company has succeeded, and with all rights, privileges and liens created by said statutes, and all powers to enforce the same originally residing in said State;

127 *Resolved*, That said Bonds from numbers one thousand two hundred, to four thousand one hundred and forty inclusive, shall be reserved and shall be deposited with said Trustees, and shall be used for the purpose of being exchanged for, or of providing for the purchase or payment of the outstanding first Mortgage Bonds of the New Orleans, Jackson and Great Northern Railroad Company, being two thousand nine hundred and forty-one of said Bonds;

128 *Resolved*, That said Bonds numbered from four thousand one hundred and forty-one to five thousand six hundred and forty inclusive, shall be reserved, and shall be deposited with said Trustees, and shall be used for the purpose of being exchanged for, or of providing for the payment or purchase of the outstanding second mortgage Bonds of the New Orleans, Jackson and Great Northern

Railroad Company, being one thousand five hundred 129
of said Bonds;

Resolved, That said Bonds numbered from five
thousand six hundred and forty-one, to six thousand
one hundred and forty inclusive, shall be reserved,
and shall be deposited with said Trustees,
and shall be used for the purpose of being exchanged
for, or of paying and liquidating, the outstanding
and unpaid coupons under said first and
second mortgages of said New Orleans, Jackson and 130
Great Northern Railroad Company, and the Matured
Coupon Bonds issued to provide for the postponement
of the date of payment of the said Coupons,
being five hundred of said Bonds;

Resolved, That said Bonds numbered from number
six thousand one hundred and forty-one, to
seven thousand one hundred and thirty-two inclusive,
shall be reserved, and shall be deposited with
said Trustees, and shall be used for the purpose of
being exchanged for, or cancelling, or providing for 131
the payment or purchase of the outstanding Bonds
under the first mortgage of the Mississippi Central
Railroad Company, being nine hundred and ninety-two
of such Bonds, or so many thereof as shall be
needed to cancel and extinguish all of said Bonds,
which are outstanding, and are legal and valid obligations;

Resolved, That said Bonds numbered from seven
thousand one hundred and thirty-three, to nine 132
thousand one hundred and twenty-nine inclusive,
shall be reserved and shall be deposited with said
Trustees, and said Bonds or so many thereof as shall
be necessary, shall be used for the purpose of being
exchanged for, or of providing for the payment and
satisfaction of the outstanding Bonds under the
second mortgage of the Mississippi Central Railroad

132 Company, which are legal and valid obligations;
and none of said Bonds referred to in this or the
last resolution. shall be removed from said deposit
or used for any other purpose, until the whole of
said first and second mortgage Bonds of the said
Mississippi Central Railroad Company which are outstanding
and valid obligations shall be paid or
cancelled;

Resolved, That said Bonds numbered from nine
134 thousand one hundred and thirty to ten thousand
three hundred and fifty inclusive, shall be reserved
and set apart, and shall be used for the purpose of
paying and satisfying the outstanding coupons and
scrip, and other liens which may be valid, and prior
to this mortgage upon the property, railroad and
franchises which were of the said Mississippi
Central Railroad Company, until all such liens are
cancelled, being one thousand two hundred and
twenty-one of said Bonds, or so many thereof as
135 shall be necessary for the purpose of cancelling and
satisfying said coupons, scrip and liens;

Resolved, That said Bonds numbered from number
ten thousand three hundred and fifty-one to
ten thousand eight hundred and fifty inclusive, being
five hundred of such Bonds, shall be used and
issued to supply the means to take up and pay any
remaining prior liens or incumbrances upon the
property hereby mortgaged, any deficiency in any
of the particular appropriations hereinbefore made,
136 and the general expenses of said trust;

Resolved, That the residue of the Bonds shall be placed in the hands of the said Trustees, and shall be executed by the President of the Company, and certified by the said Trustees only upon expenditures made, or liabilities incurred:

First—In the payment of any coupons now overdue and not postponed, upon the first and second 137 mortgage Bonds of the New Orleans, Jackson and Great Northern Railroad Company, and upon first mortgage Bonds of the Mississippi Central Railroad Company, not hereinbefore specially provided for; *Second.*—In constructing and improving the line of Railroad of this Company, with its switches, turn-onts, branches, side-tracks and equipments, or for payment of debts, or liabilities already incurred for such construction and improvement; and upon evidence satisfactory being furnished to the 138 said Trustees of the amount required to discharge debts and liabilities incurred, or necessary to incur, in improving, completing and putting the said Railroad in order as a first class railroad, or in procuring additional equipment therefor, they shall deliver to the said corporation, or to purchasers of said bonds so many of the said bonds as they shall deem equivalent to the amount of said expenditures, until the said line from New Orleans to the Ohio river as aforesaid, shall be fully completed 139 and equipped as a first-class railroad, or until the whole number of the said thirteen thousand bonds, after applying such portion thereof as has been by these resolutions specifically appropriated shall have been delivered to the Company or to the purchasers thereof;

Resolved, That the said mortgage to be executed for the security of the said bonds, shall contain the ordinary provisions and conditions, as shall be advised by counsel, and, generally the following covenants and agreements; 140

First.—That until default this company shall retain the possession and use of the mortgaged premises;

Second.—That this company will pay and dis-

141 charge all taxes or assessments which may be imposed upon the mortgaged premises or any part thereof;

Third.—That in case of default in the payment
of any of the coupons or interest warrants, on any
of the said bonds, as such they respectively become
payable, and the continuance of such default for
ninety days, or of default in the payment of the
principal when the same becomes due or of any
breach of any of the conditions or covenants in the
142 said mortgage contained, the said mortgage shall
become due and payable at the option of the
holders of one million ($1,000,000) dollars of said
bonds, and the said trustees as aforesaid or their
successors shall upon demand of the holders
of said bonds to the amount of one million
($1,000,000) dollars of said bonds, and the said
trustees as aforesaid or their successors shall, upon
demand of the holders of said bonds to the amount
of one million ($1,000,000) dollars, enter into and
143 upon said railroad, and operate and use the same,
for the benefit of the holders of said bonds, as may
be authorized by law, and shall thereafter upon like
demand, take proceedings for the foreclosure and
sale of the railroad and premises, for the benefit of
the holders of said bonds; provided that if this
company or its successors or assigns, shall after any
such forfeiture has been made or suffered, and the
principal of said bonds has been made due in con-
sequence, and before a sale of said premises has
144 been actually had under said mortgage, pay or tender the amount of interest in arrears, with interest
thereon, and all costs and expenses incurred in
proceeding to foreclose said mortgage, such forfeiture shall be waived, and this company shall be
entitled to repossess itself of said property, and
such mortgage shall stand as if no default had
occurred;

Fourth.—That all the said bonds now authorized 145
to be issued, or which may be sold and negotiated,
are upon an equality so far as regards the security,
upon the entire property described in such mortgage, and shall be upon like equality in the payment thereof, except the bonds issued in payment
or substitution for the bonds of the State of Tennessee, to the amount of one million one hundred and
ninety-nine thousand ($1,199,000) dollars, which
besides and in addition are by law entitled to, and
are to be recognized as holding the first lien in pre- 146
ference to the residue of said bonds, and to all other
obligations, mortgages or debts whatever, upon the
railroad and property of this corporation, within
the limits of the State of Tennessee.

That in case of default in the payment of interest,
or of the principal of any of the said bonds to be
numbered from number one to number one thousand one hundred and ninety-nine inclusive, and
which will bear the certificate of the Comptroller of
the State of Tennessee, and will be substituted and 147
issued in exchange for bonds of said State, the said
Trustees, upon the request of the holders of five
hundred of said bonds, may appoint a Receiver,
with the usual powers, rights and duties of Receivers, who shall enter upon and take possession of so
much of the railroad and property of this Company
as lies within the limits of said State of Tennessee,
for and in behalf of said trustees and the holders of
said bonds, for the protection and enforcement of
the lien of said bonds, as succeeding to said State 148
under the statutes thereof; or the said trustees,
upon the like request, may themselves, in case of
any such default, enter upon and take possession
of all that portion of said railroad and property
within the State of Tennessee, as aforesaid, and
manage and operate the same, so long as such default shall continue, for the benefit and protection

149 of the holders of said substituted bonds, in the same manner as a Receiver appointed by a proper Court having jurisdiction; and this Company, upon request of said trustees, in case of such default, will surrender to said trustees, or to the Receiver so appointed by them, the possession of said railroad within the State of Tennessee, and will suffer the use and occupation thereof, so long as such default continues, by or for the benefit of said trustees, or the holders of said substituted bonds;

150

Fifth.—That all the said bonds, after reservation of those hereinbefore specified, and the proceeds thereof shall be faithfully used and applied to the construction, completion and equipment of the railroad and property, structures and buildings of the said Company, the payment of debts or liabilities already incurred for the same, and of liens and charges prior to the said proposed mortgage;

151 *Sixth.*—That whenever and as often as the Company shall acquire any additional land, or other property, the same shall be held and possessed under and subject to the mortgage made to secure the said bonds;

Seventh.—That the Company will, from time to time, if thereunto requested by the trustees named in said mortgage, or their successors, execute and deliver any further deed or assurance for the better
152 assuring and conveying its railroad, and property,
and franchises, whether now owned, or hereafter acquired, for the securing of the payment of the principal and interest of said bonds;

Eighth.—That the said trustees or their successors, shall be empowered to make such releases or exchanges of any property, in said mortgage or deed of trust described, and which may not be need-

ed or used for the track, buildings or other purposes 153
of said road, as may be expedient, upon condition that the net proceeds of all property so released, shall be used only in the purchase of other property or equipment for the road, or in the payment of said bonds or obligations, and that all property taken in exchange shall become subject to said mortgage in like manner with the property exchanged;

And whereas to make the assurance and security 154
of this mortgage and deed of trust complete, and to remove any question that it will create a perfect lien upon the whole of said line of railroad, from New Orleans to the Ohio River, as aforesaid, and upon all the property, estate, franchises and interests which were at any time heretofore owned, or exercised or operated by the said New Orleans, Jackson and Great Northern Railroad Company or said Mississippi Central Railroad Company, the Corpor-
ation known as the New Orleans, Jackson and 155
Northern Railroad Company, and the Central Mississippi Railroad Company, parties of the second and third parts hereto, have agreed and the respective Boards of Directors thereof have authorized and directed, that the said Corporations should unite in the execution of this mortgage or deed of trust, to secure the bonds to be issued as hereinbefore mentioned.

Now this indenture witnesseth that the said
parties of the first, second and third parts, in con- 156
sideration of the premises, and for securing payment of the bonds to be made and executed to the amount of thirteen millions of dollars, in lawful money of the United States, as hereinbefore mentioned, and the interest to accrue thereon, and in consideration of the sum of ten dollars lawful money of the United States, unto then well and truly paid

157 by the parties of the fourth part, the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, confirmed, assigned, transferred, and set over, and by these presents do grant, bargain, sell, release, confirm, assign, transfer and set over unto the said parties of the fourth part, and their lawful successors in the trust hereby created, all and singular the Railroad aforesaid, with its appurtenances, depots, depot grounds, branches, furniture and equipments, and all and every right, title or
158 interest which said parties of the first, second, or third parts, or either of them, had or has, or shall hereafter acquire in, or to the same, being the line of Railroad formerly known, in part as the New Orleans, Jackson and Great Northern Railroad, and in part as the Mississippi Central Railroad, and subsequently, by the consolidation of said two Companies, as the New Orleans, St. Louis and Chicago Railroad, and now intended to be owned and operated as one continuous line of railroad, from New
159 Orleans to a point at or near Fillmore, upon the Ohio River opposite Cairo, by the said party of the first part, with all its branches, extensions and appurtenances, and with all the real estate now owned by the said party of the first part, or by the said parties of the second and third parts, or either of them, or which may hereafter, for the purposes of said railroad, be owned or acquired by said party of the first part, and all rights of way, rails, tracks, workshops, machinery, depots, depot grounds, im-
160 provements, tenements, and hereditaments, now owned by said parties of the first, second and third parts, or either of them, or hereafter to be acquired by said party of the first part, its successors or assigns, for the construction, operation and management of the said railroad; together with all rolling stock, locomotives, tenders, cars and equipments, machinery, tools, implements and materials,

and all and singular the other personal property of 161
every kind, nature and description, belonging to
said party of the first part, or to the said parties of
the second and third parts, now or hereafter in use,
or intended for use upon the said railroad, or in
connection with the proper equipment and operation of the same, and also all and singular the corporate rights, power and privileges, and franchises
of the said party of the first part, now owned and
possessed, or which may hereafter be required for
the construction, maintainance and operation of said 162
railroad, or connected with or relating to the same,
and all the like corporate powers, rights, privileges
and franchises of the said parties of the second and
third parts, either of them, so owned and possessed,
or which may be acquired by them or either of them,
with all rights, priveges anappunawɹtednhiles at-c
soever, affecting any of the hereby granted and
mentioned premises and estates, or thereunto belonging, and all the estate, right, title, interest,
claim and demand whatsoever of the said party of 163
the first part, or of the said parties of the second
and third parts, either at law or in equity, of, in
to and the same and every part and parcel thereof.

To have and to hold the same, with the appurtenances, unto the said parties of the fourth part, their
successors and assigns, in trust for the use, benefit
and security of the several persons and their successors, administrators, executors, or assigns, who shall
hereafter become the owners and holders of any of
the bonds to the amount of thirteen million ($13,- 164
000,000) dollars, intended to be hereby secured, subject, however, to the right of the party of the first
part, its successors and assigns to retain the free
and uncontrolled use, enjoyment, possession and
management of the premises hereby granted, or intended so to be, until by reason of default by said
party of the first part, in keeping and performing

165 the covenants and agreements in this Indenture contained, or any of them, the said parties of the fourth part are, as hereinafter provided, authorized to enter upon and take possession of, or sell the said premises as hereinafter set forth ;

And it is hereby expressly covenanted and agreed by and between the parties hereto, covenanting and agreeing for themselves and their successors and assigns, and for all parties who shall become interested as holders, or owners of the bonds intended 166 to be secured hereby, in manner following, that is to say ;

First.—That the said party of the first part, its successors and assigns, will punctually pay the holders of the bonds aforesaid, intended to be secured hereby, or any that may be issued and accepted in lieu or renewal or substitution of the same respectively. interest thereon semi-annually, as the same shall become due and payable, according to the 167 terms of said bonds and the coupons attached thereto, on the days and at the place therein respectively mentioned ; and also on the day and at the place mentioned in said bonds, and whenever the principal sum of the same, or any of them, shall, according to the provisions thereof, become due and payable, will fully and entirely pay off and satisfy the whole of said bonds, principal and interest, without deduction from either said principal or interest for any tax, levy or assessment imposed upon the pre- 168 mises, franchises and property hereby conveyed, or upon the principal or interest of said bonds, either by the United States of America, or by the States of Louisiana, Mississippi, Tennessee and Kentucky, or either of them ;

Second.—That if the party of the first part, its successors or assigns, shall at any time hereafter, after

demand made, make default or refuse, neglect or 169
omit, for any period exceeding three (3) months, to
pay the semi-annual interest on the bonds intended
to be hereby secured, or any of them, or any interest-warrant,
or coupon, issued for the payment
thereof, or shall, after demand made, make default
or refuse or neglect or omit, for any period exceeding
three (3) months, after their maturity, to pay
the principal sums of each, and all of the said bonds
intended to be hereby secured, or of any of them,
then, and in the first case of default in the payment 170
of interest hereinabove stated, and upon demand of
the holders of said bonds to the amount of one million
($1,000,000) dollars, the whole principal sum of
the said bonds, shall forthwith become due and
payable, anything in the said bonds, or in these
presents to the contrary notwithstanding, and in
such case, or in the case of default in the payment
of principal of any of the said bonds, for three
months after maturity of the same, the said trustees
or trustee, for the time being, upon the written 171
request of the holders of one million ($1,000,000) dollars
in amount of the said bonds then outstanding,
shall enter upon, and take possession of the railroad,
estates, real and personal, and premises hereby
mortgaged, or agreed, or intended so to be, and
operate, use manage and control the said railroad
and premises to the best advantage, and appropriate
the net income and proceeds derived therefrom,
over and above running expenses, and interest
on prior incumbrances, after deducting the expenses 172
of this trust, and any sum which may be necessary
to indemnify said trustees or trustee, for
any liability, loss, or expenditure, for or on account
of any matter, or thing done by him, or them in
good faith, in pursuance of his or their duty as
such trustees, to the payment in full without preference—first
of the interest, secondly of the prin-

173 cipal of all the aforesaid bonds then outstanding, if said income and proceeds be sufficient, but if not, then *pro rata*, subject only to the prior rights, lien and preference to which the holders of the bonds to be issued, as hereinafter mentioned, in substitution for the bonds of the State of Tennessee, shall be entitled in the application of the net income and proceeds of so much of the said railroad as lies within the boundaries of said State of Tennessee; and the said trustees or trustee shall also, in case of such
174 default, after, or without entering upon and taking such possession, upon the written request of holders of a like amount of said bonds then outstanding, proceed to sell the said railroad, estate real and personal, corporate rights and franchises, and all the premises hereby mortgaged, or agreed, or intended so to be, to the highest bidder, at public sale, in the city of New York, first giving at least three months' notice of such intended sale, by publication, to be made twice in each week, in at least
175 two daily newspapers published in the city of New York, and in one daily newspaper published in the city of New Orleans, and in one newspaper published in each of the said States of Mississippi, Tennessee and Kentucky, and convey the same to such purchaser or purchasers, free from all and every the trusts hereby created, and without liability to see to the application of the purchase money. And the said parties of the fourth part, their survivor or survivors, successor or successors in
176 the trust for the time being, shall execute and deliver to the purchaser or purchasers a deed of the premises, which shall convey to him or them a full, valid, and indefeasible title to the said railroad, franchises and rights, and all the estate, real and personal property, movable and immovable, herein described, and hereby mortgaged and conveyed, or intended so to be, which shall be a

perpetual bar to any claim or demand thereto, or 177
to any part thereof, by the said parties of the first,
second or third part, or their successors, or any
person claiming or to claim, under them. or either
of them. And the said parties of the first, second
and third parts, for themselves, their successors or
assigns, covenant, promise and agree, to and with
the said parties of the fourth part, their survivor
or survivors, successor or successors, and assigns,
and their grantees, under any such conveyance,
that they will never claim any right, title, interest or 178
equity in or to any portion of the mortgaged premises, in bar opposition or impeachment of the title
passed thereby. Or the said parties of the fourth
part, their survivors, successors or assigns, may, in
their discretion, in case of any default in any of the
covenants or conditions herein, foreclose the equity
of redemption of the said parties of the first, second
and third parts, and of all other persons having any
legal or equitable rights, or claims, in or to the
mortgaged premises, or any part or parcel thereof, 179
by any proceedings in law or in equity provided for
by the respective States, in which portions of the
said railroad are built, and in the Courts of such
States, or in the proper Courts of the United States
of America, having jurisdiction thereof;

And the said parties of the fourth part, in case of
the sale of said premises under and by virtue of the
power hereby granted and created, shall and will
appropriate the purchase money thereof, after such 180
deductions made for the expenses of the Trust and
of such sale, and indemnity to the Trustees as
aforesaid, to the payment as aforesaid—*first*—of
the interest due on, and,—*secondly*,—of the principal of the said outstanding Bonds, in full if said
purchase money be sufficient but, if not, then *pro
rata* and without preference, excepting only the

181 proceeds of so much of the said Railroad, and property
as is situated within the State of Tennessee,
and to which the holders of the substituted bonds
certified by the Comptroller of said State, are entitled
in preference as herein agreed: *Provided*,
however, that if the said party of the first part, its
successors or assigns, shall in case of any such default
in the payment of such interest, or of any
interest upon prior mortgages, hereinafter covenanted
to be paid or provided for, at any time
182 before a sale has been actually made, either under
the power of sale herein contained or under the
decree of any Court or Courts, pay or tender to said
parties of the fourth part, or their successors, or to
the parties entitled thereto, the amount of interest
so in arrear with interest thereon, from the time of
default, and all costs, counsel fees, commissions and
expenses incurred in the proceedings for such sale,
or in taking possession of and operating said railroad
by said parties of the fourth part, any such
183 default and forfeiture shall be opened, and the said
party of the first part, its successors or assigns,
shall resume possession of said railroad and premises,
and all parties hereto shall be restored to their
first rights, the said default and consequent proceedings
notwithstanding, and as if the same had not
occurred; and in the event of there being in the
hands of the said Trustees any portion of the Trust
Estate, or of the proceeds thereof, after payment in
full of the principal and interest of the aforesaid
184 bonds, the said Trustees shall reconvey or pay over
the same to the party of the first part, its successors
or assigns.

Third.—That the bonds to be issued under and
by virtue of this mortgage, or deed of trust, and to
be secured by it, shall be bonds of one thousand
dollars each, and of the tenor and effect following:

States of Louisiana, Mississippi, Tennessee and Kentucky.

No.........

Chicago, St. Louis and New Orleans Railroad Company, First Mortgage Seven per cent. Loan.

The Chicago, St. Louis and New Orleans Railroad Company, acknowledges itself indebted to the
bearer in the sum of one thousand dollars, which it 186
promises to pay in lawful money of the United States, on the first day of November, in the year one thousand eight hundred and ninety-seven, at its office in the City of New York, and to pay interest thereon at the rate of seven per cent. per annum, payable semi-annually at said office, in like lawful money, upon presentation and surrender of the interest warrants or coupons hereto annexed, on the first days of May and November, in each year,
as they respectively become payable, so long as the 187
principal remains unpaid, without deduction for State or United States taxes.

This is one of thirteen thousand bonds of similar amount, tenor and date, referred to in a mortgage made by the said Chicago, St. Louis and New Orleans Railroad Company, and the New Orleans, Jackson and Northern Railroad Company, and the Central Mississippi Railroad Company to Adolph
Schreiber of the City of New Orleans, in the State 188
of Louisiana, James Fentress of Bolivar, in the State of Tennessee, and Lewis V. F. Randolph of the City of New York, in the State of New York, Trustees, dated the eighth day of November, 1877, to secure the payment of such bonds, and when the certificate hereon endorsed, is subscribed by said Trustees, it will be secured thereby.

189 In witness whereof the said Chicago, St. Louis and New Orleans Railroad Company, has caused its common seal and the signatures of its President and Secretary, to be hereto affixed the eighth day of November, 1877.

Seal of the Chicago, St. Louis and New Orleans Railroad Company.

W. H. OSBORN,
President.

190 STUYVESANT FISH,
Secretary.

ENDORSEMENT.

The within is one of thirteen thousand bonds of
one thousand dollars each, secured by a mortgage
made by the Chicago, St. Louis and New Orleans
Railroad Company, and the New Orleans, Jackson
and Northern Railroad Company, and the Central
191 Mississippi Railroad Company, to the undersigned
as Trustees, dated the 8th November, 1877, and has
been duly issued in pursuance of the trust created
and conditions contained in said mortgage.

November 8th, 1877.

ADOLPH SCHREIBER,
JAMES FENTRESS,
LEWIS V. F. RANDOLPH.
} Trustees.

Fourth.—That the said bonds to be issued under
this mortgage, numbered from number one to number
192 one thousand one hundred and ninety-nine, inclusive,
shall be set apart, issued to, or used by said
party of the first part, or persons acting with its
consent and authority, to provide and be substituted
for the bonds of the State of Tennessee, heretofore
issued to the Mississippi Central and Tennessee
Railroad Company and to the Mississippi Central
Railroad Company, and shall be registered and

certified, pursuant to the statutes of the State of 193
Tennessee, by the Comptroller thereof, and such
bonds of the aforesaid numbers so certified shall be
entitled to and in fact become, as provided by the
acts of the State of Tennessee aforesaid, a lien in
the nature of a first mortgage, prior to the lien of
the residue of the bonds secured hereby, and to all
other mortgages and liens whatever upon the property
of the said parties of the first and third parts,
in the State of Tennessee; and in case of any
default in the payment of interest upon the bonds 194
hereby secured, or any of them, or of default in the
payment of the principal sum at their maturity, and
of possession being taken or a foreclosure and sale
had by the trustees as herein provided, the holders
of said bonds, numbered from number one to number
one thousand one hundred and ninety-nine, issued
under this mortgage, besides and in addition to their
rights in common with other bondholders in the
residue of said property and its proceeds, shall be
entitled to priority in the appropriation of such in- 195
come and proceeds so far as the same shall be derived
from the portion of the said railroad hereby
mortgage within the limits of said State of Tennessee,
as well as to an equal and *pro rata* share in the
income and proceeds of the residue of said mortgaged
property with the residue of the bonds
secured hereby.

Fifth.—That the said bonds to be issued under
this mortgage, numbered from number one thousand 196
two hundred to number four thousand one hundred
and forty inclusive, shall be reserved and deposited
with said parties of the fourth part, and shall be
used for the purpose of purchasing, or of being exchanged
at par for the outstanding mortgage bonds
heretofore issued by the New Orleans, Jackson and
Great Northern Railroad Company, which are a

197 prior lien upon the railroad and property heretofore owned and operated by the same. And the said two thousand nine hundred and forty-one bonds shall be used and employed for no other purpose whatever, until the maturity of such outstanding bonds of said New Orleans, Jackson and Great Northern Railroad Company, which may not be so exchanged, whereupon the said party of the first part may sell the same under the direction of the parties of the fourth part, and apply the proceeds to the
198 payment of such outstanding bonds then unpaid, and if there shall remain none unpaid, or when all of them shall be paid, any unsold bonds then remaining shall be delivered to the said party of the first part;

Sixth.—That said bonds to be issued under this mortgage, numbered from number four thousand one hundred and forty-one to five thousand six hundred and forty inclusive, shall be reserved and
199 deposited with said parties of the fourth part, and shall be used for the purpose of being exchanged at par, or sold to pay or redeem or purchase the outstanding second mortgage bonds of the New Orleans, Jackson and Great Northern Railroad Company, hereinbefore mentioned. And said one thousand five hundred bonds shall be used and employed for no other purpose whatever until the maturity of said outstanding second mortgage bonds which may not be so exchanged, whereupon said party of the
200 first part may sell the same, under the direction of the parties of the fourth part, and apply the proceeds to the payment of such outstanding bonds then unpaid, and if there shall remain none unpaid, and when all of them shall be paid, any of said one thousand five hundred bonds, then remaining, shall be delivered to said party of the first part;

Seventh.—That the said bonds to be issued under 201
this mortgage, numbered from number five thousand
six hundred and forty-one, to number six
thousand one hundred and forty inclusive, shall be
reserved and deposited with said parties of the fourth
part, and shall be used for the purpose of being exchanged
at par for, or of paying and liquidating the
outstanding and unpaid coupons under said first
and second mortgages of said New Orleans, Jackson
and Great Northern Railroad Company, provided
for by the matured coupon bonds and mortgage 202
of the New Orleans, Jackson and Northern
Railroad Company, until said coupons or said matured
coupon bonds, shall be fully paid and satisfied
or cancelled; and if there shall then remain any
of said five hundred bonds, after all such coupons
shall be paid or cancelled, the same shall be returned
and delivered to the party of the first part;

Eighth.—That the said bonds to be issued under
this mortgage, numbered from number six thousand 202
one hundred and forty-one, to number seven
thousand one hundred and thirty-two, inclusive,
shall be reserved, and shall be deposited with said
parties of the fourth part, and shall be used for the
purpose of being exchanged at par for, or of furnishing
the means to pay and cancel or purchase the
outstanding bonds under the first mortgage of the
Mississippi Central Railroad Company, hereinbefore
mentioned; and said nine hundred and ninety-two
bonds shall be used and employed for no other 204
purpose whatever, until the maturity of said outstanding
first mortgage bonds of the Mississippi
Central Railroad Company which shall not be so
exchanged, which are legal and valid obligations
against said Company, and entitled to a lein upon
the premises mortgaged hereby or some portion
thereof formerly owned by said Company; where-

205 upon the said party of the first part may sell the same under the direction of the parties of the fourth part and apply the proceeds to the payment of any such outstanding bonds then unpaid, which are legal and valid obligations as aforesaid; and if there shall remain none unpaid, and when all of them shall be paid, any of said nine hundred and ninety-two bonds then remaining shall be delivered to the said party of the first part;

206 *Ninth.*—That said bonds be issued under this mortgage, to be numbered from number seven thousand one hundred and thirty-three to number nine thousand one hundred and twenty-nine, inclusive, shall be reserved, and shall be deposited with said parties of the fourth part, and said bonds shall be used for the purpose of being exchanged at par, or providing for the payment and satisfaction or purchase as herein directed, of the outstanding bonds under the second mortgage of the said Mississippi
207 Central Railroad Company, which are valid and legal obligations, and a lien upon the property and premises hereby mortgaged, or some portion thereof heretofore owned by said Company. And the said one thousand nine hundred and ninety-seven bonds, or so many thereof as shall be necessary, shall be used for the purpose of being exchanged, or providing for the payment and satisfaction of the outstanding bonds, under the second mortgage of the Mississippi Central Railroad Company, which are
208 legal and valid as aforesaid, and for no other purpose whatever, until the maturity of any of said outstanding bonds, which may be so exchanged; whereupon said party of the first part, may sell the same, under the direction of the parties of the fourth part, and apply the proceeds to the payment of such outstanding bonds then unpaid; and whenever shall remain none of said bonds unpaid, and

when all of them shall be paid and exchanged, any 209
of said one thousand nine hundred and ninety-seven bonds then remaining, shall be delivered to the said party of the first part;

Tenth—That the said bonds to be issued under this mortgage, to be numbered from number nine thousand one hundred and thirty, to ten thousand three hundred and fifty, inclusive, shall be reserved and set apart, and shall be used for no other purpose, than for paying and satisfying, or for the 210
purpose of purchasing or being exchanged for the outstanding coupons and scrip issued for interest upon the first and second mortgages of which may be valid and prior to this mortgage, upon the property and franchises of said Company, until all said outstanding coupons, scrip and other liens, upon said property of the said Mississippi Central Railroad Company, shall be fully paid, satisfied, and canceled, when any of said one thousand two hundred and twenty-one bonds remaining unsold, 211
or unissued, shall be delivered to the said party of the first part.

Eleventh.—That the said bonds to be issued under this mortgage, and numbered from number ten thousand three hundred and fifty-one to number ten thousand eight hundred and fifty inclusive, shall be used and issued from time to time to supply the means to pay each or any of the prior liens or incumbrances upon said premises hereby mortgaged, 212
or any portion theref and the general expenses of the trust hereby created, and of the cancelling and satisfaction of the debts and liens referred to;

Twelfth.—That the residue of the bonds to be issued under this mortgage, numbered from number ten thousand eight hundred and fifty-one to number thirteen thousand inclusive, shall be

113 used—First, to provide funds for the payment of coupons overdue and not postponed, upon the first and second mortgage bonds of the New Orleans, Jackson and Great Northern Railroad, and upon the first mortgage bonds of the Mississippi Central Railroad Companies, and not otherwise herein specifically and sufficiently provided for, and other debts and liens prior to this mortgage; Second, for the construction, completion and improvement of the line of railroad of the party of the first part,
114 and its equipment, and for the payment of debts, or liabilities incurred for the same, and to put the said railroad in order as a first-class railroad, with sufficient equipment to operate the same. And upon evidence being furnished to the parties of the fourth part, or their successors, that any expenditure has been made, or liability incurred for such construction or improvement, since the tenth day of March, 1876, they shall deliver to the said party of the first part, or to the purchasers of the said bonds,
115 so many of said bonds, or the proceeds therof, as shall be equivalent to the amount of such overdue coupons so paid, or of such expenditures so made or incurred, until all such debts, liens and coupons shall be fully paid, and until the said line from New Orleans to the Ohio River, as aforesaid, shall be fully completed and equipped as a first-class railroad, or until the whole number of the said thirteen thousand bonds, after applying such portions as have been heretofore by these presents
116 specifically appropriated, shall have been delivered to the said party of the first part, or to the purchasers thereof;

And the said party of the first part, for itself, its successors and assigns, doth covenant and agree with the said parties of the fourth part and their successors, and to and with the holders of the bonds

to be issued and secured under this mortgage, that 217
they will at all times, until the existing mortgages hereinbefore mentioned, upon the property hereby mortgaged, or certain portions thereof, shall have been extinguished by the substitution of the bonds hereby secured, for the bonds issued under said prior mortgages, or by the payment thereof, keep, pay, and discharge any and all interest which shall become due and payable, upon the bonds secured by said prior
mortgages. And that all the said bonds to be issued 218
under and secured by this Indenture, after reservation of those hereinbefore specified, and the proceeds thereof, shall be faithfully used and applied to the construction, completion and equipment of the railroad property, structures and buildings of the said party of the first part, and to the payment of liens and charges thereon, as aforesaid;

And the parties aforesaid, for themselves, their
successors and assigns, do respectively further 219
covenant, promise and agree that, in case default shall at any time be made in the payment of any interest upon any of the said bonds numbered from number one to number one thousand one hundred and ninety-nine inclusive, which will bear the certificate of the Comptroller of the State of Tennessee, and will be bonds substituted or issued in exchange for the bonds of said State, or in the payment of the principal of said
bonds at their maturity, and provided the holders of 220
five hundred of said bonds, shall in writing request or demand the same, the said parties of the fourth part, or their successors, may and will appoint a suitable person to take possession of so much of said road and its appurtenances, as lie within the limits of the State of Tennessee, and are subject to the prior and special lien of the bonds aforesaid with the

221 usual powers and duties of a Receiver, and in like manner as the Governor of said State under the statutes thereof, would appoint such Receiver, if the State had continued to hold its lien without transfer of the same;

Or in the event of any such default, and upon the like request of the holders of five hundred of said bonds, the said Trustees may and will themselves enter upon, and take possession of said road, and its appurtenances, within the State of Tennessee
222 aforesaid, and operate and manage the same, and apply the net earnings thereof to the payment and satisfaction of the interest, or the principal of said bonds, so in arrears, in like manner, and with the same rights, powers and duties as would be possessed and exercised by a Receiver, who should be appointed by a Court of competent jurisdiction in such a case. And the said party of the first part, its successors and assigns, in case of such default, upon the request, or demand of said parties of the
223 fourth part or their successors, will forthwith surrender to said parties of the fourth part, or their successors, or to the agent or Receiver, appointed by them, the possession and control of said railroad, within the State of Tennessee, in the same manner as they would surrender the same to a Receiver appointed by a competent Court, or to a Receiver who should be appointed by the Governor of the State of Tennessee, under the statutes aforesaid, if such default had occurred before any transfer of its
224 lien or rights by said State.

And it is further covenanted and agreed by and between the parties hereto, their successors and assign, that whenever and as often as the said party of the first part, or its successors, shall acquire any franchises, lands equipment, or other property or interest of any name or nature, for the use of,

or in connection with its railroad, or for the pur- 225
poses of its incorporation,. the said company, its
successors or assigns, shall, and will acquire,
possess and hold the same, and every part and parcel
thereof, upon and subject to the lien and trusts of
this Indenture; and that the said party of the first
part, its successors and assigns, will from time to
time, and at all times hereafter, and as often as
thereunto requested by the parties of the fourth
part, their successor or successors, execute and de-
liver any and all further deeds, conveyances and 226
assurances in the law for the better assuring unto
the said parties of the fourth part, or their success-
ors upon the trusts herein mentioned, all their
railroads, its equipment and property of every na-
ture, now owned or which may be hereafter acquired,
including the franchise to be a corporation; and
that in case the said party of the first part, its suc-
cessors or assigns, shall thereafter receive or acquire
lands or other property, and the said parties of the
fourth part, their successor or successors, in behalf 227
of the holders of the bonds issued under this Inden-
ture, shall deem it for the interest of their trust, and
shall request the same, the said party of the first
part, and its successors, will, from time to time, exe-
cute, and deliver, any and every such other mortgage
or deed of trust or further assurance covering the
lands or property so received, or acquired, which
shall be necessary to hold and bind the same, as
security for the payment of the principal and inter-
est of the bonds aforesaid, and performance of the 228
covenants and stipulations of this Indenture.

And it is further covenanted and agreed, that it shall and may be lawful for the said party of the first part, its successors, or assigns, at any time or times hereafter, to exchange for other property or sell any part of the hereby mort-

229 gaged premises, other than the said Railroad, which
may not be necessary for the uses and purposes of
such Railroad, and to convey the same, without
liability on the part of the grantee as to the disposition
of the purchase money or of the property
received in exchange by the party of the first part,
and the said parties of the fourth part, or their successors,
shall and will, on the request of the party
of the first part, its successors or assigns, execute
all necessary releases for that purpose, the party of
230 the first part covenanting, that the proceeds of any
sale so made shall be invested by it, either in the
improvement of the remaining part of the mortgaged
premises, or in the purchase of other property, real
or personal, for the uses of its Railroad, which
property so purchased, as also any acquired in exchange,
as aforesaid, shall be subject to all the
trusts hereby created of the property described in
this Indenture, or in the purchase of bonds issued
hereunder, which bonds, so purchased, shall be
231 forthwith cancelled and delivered to the parties of
the fourth part, and the said parties of the fourth
part and their successors may also, in their discretion,
on the request of the party of the first part,
consent to any change in the location of the track
of said Railroad, or the depots and buildings, or
structures thereof, as may seem expedient, and are
authorized to make and deliver all instruments
necessary and proper to effect such objects. And
the party of the first part further covenants and
232 agrees that whenever it, or its successors or assigns,
shall acquire any lands, property or franchises, or
equipments of any nature or description, for use in
connection with said Railroad, by any such change
in the location of the tracks, depots or buildings
thereof, or otherwise, they will hold the same upon
and subject to the trusts of this Instrument, until
conveyances thereof shall have been made and de-

livered, if required; and the party of the first part, 232
and its assigns or successors, shall and will, whenever so requested, execute and deliver such further conveyances and assurances, for the better assuring to the parties of the fourth part, and their successors, upon the trusts herein expressed, any property, real or personal, movable or immovable, to which the said party of the first part, or its successors or assigns, may become entitled, by any purchase or exchange, or alteration in the location of
the tracks, depots or buildings of said Railroad, as 234
aforesaid.

And it is further covenanted and agreed, by and between the parties hereto, that in case of the death, resignation or inability of either of said parties of the fourth part, hereinbefore named as the Trustees under this indenture, the franchises, rights and property of every description herein conveyed to them shall at once vest in the survivor or survivors,
and that such survivor or survivors may, with the 235
assent of the party of the first part, designate a person or persons to succeed such person or persons dying, or resigning, or unable to act as one of the parties of the first part. And upon the person or persons so designated delivering to such survivors and to the said party of the first part, or its successors, a written acceptance of the trust, he or they, as the case may be, shall become the successor or successors of the person or persons so dying, re-
signing or becoming unable to act with all the rights 236
and powers herein and hereby vested in the said parties of the fourth part. And in case all parties of the fourth part shall die, resign, or become unable to act, as aforesaid, so that there shall be no Trustees to discharge the trusts and duties created by this Instrument, or if any survivor or survivors and the party of the first part shall not agree in the

237 choice of a person or persons to succeed to and fill any such vacancy; persons to succeed thereto or to fill said trusteeships, or any of them, may be appointed by the Chief Justice of the Supreme Court of the State of Louisiana, on the application of the party of the first part, or of any such surviving Trustee or Trustees, or of holders of at least one hundred bonds to be issued hereunder, as aforesaid, provided that notice of the application be previously published in at least three daily papers in the
238 City of New York, and in one newspaper published in each of the States of Louisiana, Mississippi, Tennessee and Kentucky for four successive weeks, one in each week.

And the said party of the first part, its successors and assigns, further covenants and agrees to pay to the said parties of the fourth part, and each of them, annually, for their ordinary services under this trust and in the discharge of the duties hereby
239 created the sum of three hundred ($300) dollars, together with any necessary expenses actually incurred for clerk hire and legal advice, and it is further covenanted and agreed, and this trust is accepted upon the express condition that the said Trustees, parties of the fourth part, shall not nor shall their successors, or any future Trustee or Trustees, incur any liability or responsibility whatever, in consequence of permitting or suffering the said party of the first part to retain or be in possession of the rail-
240 road property and premises hereby mortgaged or any part thereof, or for any destruction, deterioration, loss or damage which may be done to or incurred by the railroads or estates hereby mortgaged, either by the act or default of such party of the first part, or its agents or servants, or of any other person or persons whomsoever, or for the consequences of any breach on the part of the party of the first part, or

the parties of the second or third parts, of any covenants herein contained, or of any act of the party of the first part, its agents or servants, or of the parties of the second or third parts, nor for any other matter or thing except for their or his own wilful or negligent breach of the trusts herein expressed and contained; 241

And it is expressly covenanted and agreed, by and between the parties aforesaid, that all and singular the covenants, conditions and agreements herein contained, shall extend and apply to the successors and assigns of the respective parties, whether they be expressly named therein or not; 242

And it is hereby expressly provided, and this Indenture is made upon condition that, if the said Chicago, St. Louis and New Orleans Railroad Company, its successors or assigns, shall well and truly pay, or cause to be paid, all the interest, without deduction of any taxes or assessments, as the same shall from time to time become due and payable upon the said bonds, as hereinbefore stipulated, and shall pay the said principal of said bonds at maturity, according to the tenor and intent thereof, and shall keep and perform all and every the covenants herein contained on the part of the said Company, then and in that case this Indenture shall be and become null and void, and the estate hereby granted or conveyed, or agreed so to be, shall be void and of no effect, anything herein contained to the contrary notwithstanding; otherwise this Indenture and the estate hereby granted and conveyed, shall be and remain in full force. 243 244

In Witness Whereof, the said Chicago, St. Louis and New Orleans Railroad Company, hath caused its common seal and the signatures of

245 its President and Secretary to be hereto affixed; and the said New Orleans, Jackson and Northern Railroad Company hath also caused its common seal and the signatures of its President and Secretary to be hereto affixed; and the said Central Mississlppi Railroad Company, hath also caused its common seal and the signatures 246 of its President and Secretary to be hereto affixed; and the said Adolph Schreiber of the City of New Orleans in the State of Louisiana, James Fentress of Bolivar in the State of Tennessee, and Lewis V. F. Randolph of the City of New York in the State of New York, Trustees, have hereunto set their hands and seals, all of which is 247 done the eighth day of November, the year of our Lord one thousand eight hundred and seventy-seven.

The Chicago, St. Louis & New Orleans Railroad Company, by

Seal of the Chicago, St. Louis and New Orleans Railroad Company.

W. H. Osborn, President.
Stuyvesant Fish, Secretary.

248 *The New Orleans, Jackson & Northern Railroad Company, by*

Seal of the New Orleans, Jackson and Northern Railroad Company.

W. H. Osborn, President,
Stuyvesant Fish, Secretary.

The Central Mississippi Railroad 249
Company, by

Seal of the Central Mississippi Railroad Company.

W. H. **Osborn**, President.
Stuyvesant Fish, Secretary.

Signed, sealed and delivered by the said Messrs. Osborn and Fish in their said respective capacities in our presence.

L. E. SIMONDS,
W. W. FINLEY. 250

[L. S.]	**A. Schreiber**,	*Trustees.*
[L. S.]	**James Fentress**,	
[L. S.]	**L. V. F. Randolph**,	

L. E. Simonds, **Andrew Hero, Jr.**	Witnesses to the signatures of A. Schreiber and Jas. Fentress.
W. J. Mauriac, **W. E. Ruttan**,	Witnesses to the signature of Lewis V. F. Randolph. 251

252

253 **RESPONDENT'S EXHIBIT NO. 2.**

W. H. D. L., Spl. Exr.

"STATE OF TENNESSEE.

We, James D. Porter, Governor, and Charles N. Gibbs, Secretary of State of the State of Tennessee, do hereby certify—pursuant to section 6 of an Act entitled 'An Act to liquidate the State debt contracted in aid of Railroad Companies in the State of Tennessee,' passed Eebruary 25, 1869, that Adolphe
254 Schreiber, James Fentress and Lewis V. F. Randolph (Trustees under a certain mortgage made the eighth day of November, 1877, between the Chicago, St. Louis and New Orleans Railroad Company, of the first part; the New Orleans, Jackson and Northern Railroad Company, of the second part; the Central Mississippi Railroad Company, of the third part, and the said Trustees of the fourth part), as Trustees for the purchasers and holders of the bonds to be issued under said mortgage, number-
255 ed from number one to number one thousand one hundred and ninety-nine, inclusive, have paid in and delivered up bonds and coupons of the State of Tennessee as authorized by the Act aforesaid equal in amount to the indebtedness heretofore created by the Mississippi Central and Tennessee Railroad Company, and the Mississippi Central Railroad Company, and which is a first lien on the Railroad and property heretofore known as the Mississippi Central Railroad, lying in the State of Tennessee,
256 and has become a debt of, and a first lien upon the property of the Chicago, St. Louis and New Orleans Railroad Company, its successor, in the State of Tennessee; that such payment was made by and with the written consent of the Board of Directors of the Central Mississippi Railroad Company and of the Chicago, St. Louis and New Orleans Railroad Company, as allowed by the statutes of Ten-

nessee, and that the said Trustees, for and in behalf 257
of the holders of said bonds to be issued under said mortgage to provide and be substituted for the debt of the State of Tennessee so paid, are substituted and entitled to all the liens against said property for the payment of said debt that the State of Tennessee had or has by law.

And we do hereby, as provided and authorized in the Act of February 25, 1869, and acts amendatory
thereof, in the name of the State of Tennessee and in 258
her behalf and for the considerations above-named, assign and transfer to the said Adolphe Schreiber, James Fentress and Lewis V. F. Randolph, Trustees as aforesaid, all the debt and lien of the State of Tennessee on the Railroad and property heretofore owned in said State, by the Mississippi Central and Tennessee Railroad Company and on all the railroad and property in said State heretofore known as the
Mississippi Central Railroad, now known as the 259
Chicago, St. Louis and New Orleans Railroad, which said State has or had on the same by reason of the internal improvement laws of said State, and the fact that said State had granted aid to said railroads under the statutes thereof, with all the rights, privileges and powers which said State has or had for enforcing said lien; the object being to substitute the said Trustees for the State, and to place them in the same position and with the same rights
which the State of Tennessee had previous to and 260
before the said payment and delivery of State Bonds, with full power to enforce the same in any and every manner in which the said State may or might.

This the 28th of November, A. D. 1877.

In witness whereof, I, James D. Porter,
Governor of the State of Tennessee,

261 have hereto set my hand and caused the great seal of the State of Tennessee to be hereunto affixed, this 28th of November, 1877.

(Sd.) JAS. D. PORTER,
Governor.

In witness whereof, I, Chas. N. Gibbs, Secretary of State, have hereto set my hand and the great seal of the
262 State of Tennessee, this November 28, 1877.

(Sd.) CHAS. N. GIBBS,
[L. S.] *Sec. State.*

263

264

Deposition of Dempsey Weaver.

UNITED STATES CIRCUIT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE. 1

CALVIN AMORY STEVENS

vs.

The NASHVILLE & NORTHWESTERN RAILROAD COMPANY *et al.*

SAME 2

vs.

The McMINNVILLE & MANCHESTER RAILROAD COMPANY *et al.*

SAME

vs.

The WINCHESTER & ALABAMA RAILROAD COMPANY *et al.* 3

SAME

vs.

The MEMPHIS, CLARKSVILLE, & LOUISVILLE RAILROAD COMPANY.

In Equity.

4

(Western District of Tennessee.)

5 The deposition of Dempsey Weaver, taken by consent, to be read in evidence for complainants in above cases:

nter. 1. Please state your age, residence and occupation?

Ans. to Int. 1. I am in my sixty-fifth year. Am a banker.

Int. 2. Were you a party to the suit in the Chancery Court at Nashville, Tennessee, wherein the
6 State of Tennessee was complainant and the Edgefield & Kentucky Railroad Company and others were defendants, the purpose of which suit was to sell the delinquent railroads in the State?

Ans. to Int. 2. I was a party to the suit in question?

Int. 3. By whom was your answer in that suit written?

Did you retain a lawyer to write and file said answer and defend your interests in said suit, and if
7 so, whom?

Did you pay any lawyer a fee for filing your answer and representing you in the case?

Were you in favor of or opposed to the sale of the delinquent railroads by the State under the Acts of 1869 and 1870?

How did you happen to be made a party to said suit?

Please state all the circumstances connected with the writing and filing of your answer in said suit,
8 and whether you felt any interest in the litigation as a bondholder claiming a lien on any of the defendant railroads?

Ans. to Int. 3. Do not remember by whom my answer to that suit was written. Francis B. Fogg was my regular attorney for many years previous to and subsequent to that time, to attend to all my official and individual litigation. My recollection is that Mr. W. B. Reese called on me for the numbers on my State bonds. Have no recollection of retaining a lawyer to write and file said answer and defend my interest, nor have I any recollection of paying any lawyer a fee for filing my answer and representing me in the case. I was in favor of the State selling the delinquent railroads under the several acts of the Legislature passed for that purpose. Don't remember now the particulars as to how I happened to be made a party to that suit. I have already stated all I now remember of the circumstances connected with the writing and filing of my answer in said suit. 9 10

I felt no particular interest in the litigation as a bondholder claiming a lien on any of the defendant railroads.

D. WEAVER.

Oct. 4th, 1879.

11

12

5 The deposition of **Dempsey Weaver**, taken by consent, to be read in evidence for complainants in above cases :

nter. 1. Please state your age, residence and occupation?

Ans. to Int. 1. I am in my sixty-fifth year. Am a banker.

Int. 2. Were you a party to the suit in the Chancery Court at Nashville, Tennessee, wherein the
6 State of Tennessee was complainant and the Edgefield & Kentucky Railroad Company and others were defendants, the purpose of which suit was to sell the delinquent railroads in the State?

Ans. to Int. 2. I was a party to the suit in question?

Int. 3. By whom was your answer in that suit written?

Did you retain a lawyer to write and file said answer and defend your interests in said suit, and if
7 so, whom?

Did you pay any lawyer a fee for filing your answer and representing you in the case?

Were you in favor of or opposed to the sale of the delinquent railroads by the State under the Acts of 1869 and 1870?

How did you happen to be made a party to said suit?

Please state all the circumstances connected with the writing and filing of your answer in said suit,
8 and whether you felt any interest in the litigation as a bondholder claiming a lien on any of the defendant railroads?

Ans. to Int. 3. Do not remember by whom my answer to that suit was written. Francis B. Fogg was my regular attorney for many years previous to and subsequent to that time, to attend to all my official and individual litigation. My recollection

is that Mr. W. B. Reese called on me for the numbers on my State bonds. 9
Have no recollection of retaining a lawyer to write and file said answer and defend my interest, nor have I any recollection of paying any lawyer a fee for filing my answer and representing me in the case. I was in favor of the State selling the delinquent railroads under the several acts of the Legislature passed for that purpose. Don't remember now the particulars as to how I happened to be made a party to that suit. I have already stated all I now remember of the circum- 10
stances connected with the writing and filing of my answer in said suit.

I felt no particular interest in the litigation as a bondholder claiming a lien on any of the defendant railroads.

D. WEAVER.

Oct. 4th, 1879.

11

12

1

DEPOSITION OF ALBERT S. MARKS.

STATE OF TENNESSEE, COUNTY OF DAVIDSON.

CALVIN AMORY STEVENS, FOR HIMSELF AND OTHERS 2
vs.
THE CHICAGO, ST. LOUIS & NEW ORLEANS RAILROAD COMPANY, ET ALS.
No. 317.

IN THE 3

United States Circuit Court,

OF WESTERN DISTRICT OF TENNESSEE, AT MEMPHIS, TENNESSEE.

Taken at Nashville, Tennessee, in the presence of S. Watson, Jr., solicitor for complainant, and James Fentress, solicitor for defendants.

The deposition of A. S. Marks, Governor of Tennessee, a witness for defendant. 4

Witness, being first duly sworn to speak the truth, deposes and says:

Question 1st (By Defendant's Counsel). Are you the

5 Governor of Tennessee, and if so how long have you occupied that position?

Answer. I am, and have occupied that position since my inauguration on January 17th, 1879.

Q. 2. Who was your immediate predecessor as Governor of Tennessee?

A. Hon James D. Porter.

Q. 3. Did the complainant in this suit, Calvin Amory
Stevens, either by himself, or attorney, or agent, prior to
6 the bringing of this suit, make any application to you to
appoint a Receiver of the Mississippi Central and Tennessee or Mississippi Central Railroad; if so, when?

A. There has been no application by Mr. Stevens to me or to the Executive Office of Tennessee to appoint a Receiver of the roads mentioned; nor has there ever been any application to the Governor of Tennessee since I have been in office, to appoint a Receiver of any railroad in Tennessee.

7 Q. 4. Has there been, prior to the bringing of this suit, any application by complainant, or any holder of the bonds of Tennessee, so far as you know, under the third section of the Funding Act of 1873, to set apart in the hands of the Treasurer any revenues of the State for payment of the interest on such bonds, as provided in said act?

A. To my knowledge there has been no such application.

8 *Cross-examination* by counsel for complainant:

Cross-Question 1. If complainant or any other bondholder had applied to you as Governor of the State to appoint a Receiver on defendant's road, would you have done so?

A. I would not.

(Defendant excepts to above question and answer as hypothetical and irrelevant.) 9

Albert S. Marks.

Subscribed and sworn to before me, this March 24, 1880,

Lewis T. Baxter,
Clerk U. S. Circuit Court for Mid. District of Tennessee.

State of Tennessee,
Davidson County. 10

I, Lewis T. Baxter, U. S. Circuit Court Clerk, do hereby certify that the foregoing four pages of the deposition of A. S. Marks was taken before me to-day, and that said witness, after having the same read over to him, did on oath depose and say that the same is true.

In witness whereof, I have hereunto set my hand this the 24th day of March, 1880.

Seal of the Court.

Lewis T. Baxter,
Clerk U. S. Cir. Ct. Mid. Dist. of Tenn. 11

12

1

Deposition of Richard T. Wilson.

UNITED STATES CIRCUIT COURT,

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis & Charleston R. R. Co., 2

vs.

THE MEMPHIS & CHARLESTON R. R. Co. *et al.*

Testimony and proofs for final hearing on the part of the respondents in the above-entitled suit, taken under and pursuant to the 67th Rule in Equity, as amended, before William H. DeLancey, Special Examiner, duly appointed herein. 3

NEW YORK, March 12th, 1880. 4

Present—MR. CHAS. H. TWEED,
For Respondents.
MR. E. L. ANDREWS,
For Complainants.

5 **Richard T. Wilson**, a witness produced on the part of the respondents in the above-entitled suit, being first duly cautioned and sworn therein to testify the truth, the whole truth, and nothing but the truth, deposes and says:

(Deposition taken subject to all legal objections of both parties.

1 Q. Did you, on behalf of the East Tennessee, Virginia and Georgia Railroad Company, deliver to 6 the agent of the Comptroller of the State of Tennessee the bonds and coupons mentioned in the receipts signed by P. C. Calhoun, agent of the Comptroller, and dated June 10th, 11th and 14th, 1870, and forming together Respondent's Exhibit No. 4 on your previous examination?

A. Yes. I delivered those bonds and coupons to the agent of the Comptroller of the State on behalf of the East Tennessee, Virginia and Georgia Railroad Company, at divers dates between the 10th and 7 14th of June, 1870, taking such receipts therefor. And I also paid the sum of $11.10 in cash to make up the whole amount of the indebtedness of the East Tennessee, Virginia and Georgia Railroad Company at that time to the State of Tennessee.

2 Q. In addition to the receipts above referred to, did the East Tennessee, Virginia and Georgia Railroad Company afterwards receive from the Comptroller of the State of Tennessee a final receipt acknowledging the payment to him of the bonds, 8 coupons and cash, which you have just referred to?

A. It did. It was delivered on or about the eleventh day of August, 1870, and was and is as follows:

"COMPTROLLER'S OFFICE, } 9
"Nashville, August 11, 1870. }

"STATEMENT.

"Debt of E. T. & Va. R. R. Co., as per statement....................	$2,563,870 70
"Debt of E. T. & Ga. R. R. Co., as per statement....................	1,553,890 40
"Total amount due State July 1, 1870	$4,117,761 10

"CREDITS. 10

"I hereby acknowledge to have received from the East Tennessee & Virginia and East Tennessee & Georgia Railroad Companies the following number of bonds and coupons of the State of Tennessee in liquidation of said debt due to the State July 1, 1870, viz.:

3,835 State Bonds of $1,000 ea.........	$3,835,000 00	11
9,425 past due coupons $30 ea.......	282,750 00	
Currency paid 4th National Bank, N. Y.	11 10	
		4,117,761 10

Signed.
ED. R. PENNEBAKER,
[Seal State of Tennessee.] *Comptroller, &c.*

12 "The above amounts represent the entire indebtness of the railroads above mentioned, and have been credited with such amounts in my office.

ED. R. PENNEBAKER,
Comptroller, &c."

13 3 Q. Were you one of the purchasers of the Cincinnati, Cumberland Gap and Charleston railroad at the sale of that property under the State's lien ?

A. I was one of the trustees who purchased that property on behalf of the East Tennessee, Virginia & Georgia Railroad Company.

4 Q. What was the purchase price ?

A. $300,000, payable in Tennessee State bonds carrying the coupons due the first of January, 1871, and thereafter.

14 5 Q. Did you as such purchasers pay to the State of Tennessee that amount of the bonds of the State ?

A. Yes; we paid those bonds to the State in accordance with the terms of the decree under which we purchased the property,

6 Q. Are you one of the trustees of the mortgage executed by the East Tennessee, Virginia & Georgia Railroad Company, dated June 1st, 1870; and, if so, please produce such mortgage.

15 A. I am one of the trustees, and will produce such mortgage to be annexed to this deposition.

(Mortgage produced, offered in evidence, and marked Respondent's Exhibit No. 1—W. H. D. L., Spl. Exr.)

7 Q. State how many bonds have been issued, and are now outstanding, under that mortgage.

16 A. There have been issued, and are now outstanding in the hands of the general public, $3,123,000 of those bonds.

8 Q. Are you also a trustee under the mortgage of the Knoxville & Ohio Railroad Company dated January 1st, 1876; and, if so, please produce such mortgage ?

A. I am such trustee, and will produce such mortgage.

(Mortgage produced, offered in evidence, 17
and marked Respondent's Exhibit No. 2—
W. H. D. L., Spl. Exr.)

9 Q. How many bonds have been issued and are outstanding under that mortgage?

A. There are $500,000 bonds issued and now outstanding under that mortgage and in the hands of the general public.

10 Q. How many bonds have been issued and are
now outstanding under the mortgage executed by 18
the Memphis & Charleston Railroad Company and
dated the 20th August, 1877.

A. There have been issued and are now outstanding
in the hands of the general public $1,400,000 of
the first class bonds mentioned therein generally
known as first mortgage bonds of the Tennessee
Division of the road, which are secured through an
assignment of the Tennessee lien under the tripartite
agreement. There have also been issued under
such mortgage $558,000 of junior bonds which are 19
not secured.

10 a Q. State, so far as you know, how and where the bonds issued under the mortgage just produced, executed by the East Tennessee, Virginia & Georgia Railroad Company and the Knoxville and Ohio Railroad Company and the Memphis & Charleston Railroad Company, are now held.

A. Those issued by the East Tennessee, Virginia
& Georgia Railroad Company were mainly sold in
Europe, and are held there now probably to the 20
extent of four-fifths of them, and I should say that
the remaining fifth is held mainly in New York,
Philadelphia and Baltimore, by a good many different
parties; the Knoxville and Ohio substitution
bonds are held mainly in New York, Boston, Baltimore
and Ohio, by sundry persons.

10 b Q. Did any of the present holders of those

21 bonds, so far as you know, know at the time they became purchasers thereof, of any claim on the part of the holders of the bonds of the State of Tennessee, that bonds loaned to railroads were in any way a lien upon the property of the company to which they were loaned?

A. They were all negotiated before the bringing of these suits, and so far as I know before any public announcement of any such claim as is now attempted to be set up in these suits, and before the
22 public who became purchasers of these bonds could have known of the existence of such claim on the part or behalf of the Tennessee bondholders; as previously stated, I held some of these bonds and had seen the Davies and Davis opinion which I had referred to my counsel but never read; he telling me it was unsound. And this opinion came into my hands then because I was interested in Tennessee railroads, and was not in any way circulated as a public document, so far as I know or believe,
23 for the purpose of putting the purchasers of bonds upon notice of the existence of such a claim.

11 Q. At the time of the settlement of the East Tennessee, Virginia & Georgia Railroad Company with the State in June, 1870, what was the amount of any of the arrears due for interest and sinking fund from the East Tennessee, Virginia & Georgia Railroad Company to the State of Tennessee?

A. In June, 1870, at the time of making its settlement with the State, the East Tennessee, Vir-
24 ginia & Georgia Railroad Company was in arrears to the sinking fund for the instalment thereof, which became due on the first day of January, 1870, to the amount of $152,640 or thereabouts, being four per cent. upon the principal of its indebtednesss to the State of Tennessee at that time, and was also in arrears for the non-payment of the interest on its indebtedness to the State, which be-

came due on the 15th of December, 1869, to the 25
amount of $114,480 or thereabouts, and another interest instalment of a like amount was about falling due to the State on the 15th day of June, 1870; and by the laws of the State the railroad company, besides paying the semi-annual interest instalment, was required to pay to the sinking fund four per cent. annually on the first day of January, and under the law the property of the company was subject to be taken possession of and sold out by the
State in consequence of the company's default in 26
respect to the sinking fund.

12 Q. In July, 1877, at the time of the purchase by Iselins of the State lien upon the Memphis & Charleston Railroad, how much was the Memphis & Charleston Railroad Company, if any, in arrears in respect of the interest and sinking fund payments due to the State?

A. At that time the Memphis and Charleston Railroad Company was in arrears to the sinking
fund for installments due for several years pre- 27
viously thereto to the amount of $342,541.12, or thereabouts, and was also in arrears for non-payment of interest on its indebtedness to the State, which became due on the 15th day of June, 1877, to the amount of $50,157.40, and also in arrears to the amount of $14,742.40 for the non-payment of a portion of the interest on its indebtedness to the State, which became due on the 15th day of December, 1876, and under the law it was subject to be taken
possession of and sold by the State in consequence 28
of such defaults to the sinking fund, and the State had been actually threatening to take possession of the road under its statutory rights.

13 Q. Have you procured from the records of the office of the Comptroller of the State of Tennessee a statement showing the amount paid in by railroads through the retirement of their debts to the State

29 and by sinking fund payments made since January, 1870, and the sales of railroads and other particulars in respect to these matters?

A. Yes, I have procured such a statement, and I now produce it to be annexed to my deposition, with a summary statement of the results thereof, showing payments to the State of bonds, coupons, and money by the railroads, including the payment previously made by the Louisville and Nashville Company, amounting in all to $22,664,827.28.

30

(Statement produced; marked Respt's Exhibit No. 3—W. H. D. L., Spl. Exr.)

14 Q. State, as nearly as you can, what was the amount of the total bonded indebtedness of the State on the 20th day of January, 1870?

A. As nearly as I can state it, and I was pretty familiar with the debt of Tennessee, it was about $37,854,734 of principal, on which there was past
31 due interest amounting to about $2,346,070, making a total of about $40,200,805, about $21,962,827 of which has since that date been realized from the disposition by the State of the railroad assets which it then held.

15 Q. Does the above indebtedness embrace the liability of the State as endorser on the city and railroad bonds endorsed by it?

A. It does not. In addition to the above indebtedness the State was liable as endorser on city and
32 railroad bonds to the extent of about $2,196,000; most, if not all, these endorsed bonds were outstanding on the 20th of January, 1870.

16 Q. Was the settlement made by the Louisville and Nashville Railroad Company with the State of Tennessee of its indebtedness for bonds loaned by the State open and public and notorious?

A. Yes, it was, and besides other publicity given

to it, it fully appeared by the proceedings in the 33
Legislature of the State of Tennessee in the year
1865, including a resolution adopted May 5, 1865,
appointing commissioners to settle with that Railroad
Company, and the said Commissioners did settle
with the Railroad Company, and made a report
of that fact to the Legislature of the State of Tennessee,
dated November 18, 1865. I produce a copy
of this resolution and report to be annexed to my
deposition.

17 Q. Was the pendency and passage of the Acts 34
of the Legislature of the State of Tennessee of
1869–70, in respect to the relations between the railroads
and the State of Tennessee, open and public
and notorious?

A. I was not present in Nashville at either of the
sessions of 1869 or 1870, so far as I now remember,
but it was a matter of great public concern, provoked
considerable discussion and comment, all of
which, including the Acts, were published in the
newspapers, and attracted a good deal of attention.. 35

18 Q. Was the making of settlements between the different railroad companies of Tennessee and the State, in respect of their indebtedness, open and public and notorious when the same took place?

A. Yes, in a certain sense it was public, open and
notorious; my firm conducted a very large proportion
of the settlements of what were called the solvent
roads, or the class that retired their debts and
were not sold out, and while we did not state to the
public generally while purchasing the bonds that we 36
would at a certain day retire the debt of this or that
road, it was nevertheless a fact well known generally,
and I always mentioned it to the bondholders of the
State, many of whom came in to get information respecting
the prospects for the resumption of interest
and the settlement of the State debt, and uniformly,
and I believe universally, I spoke of this scheme of

37 retiring the railroad's debts and reducing the indebtedness
of the State through these laws and through
the sale of the insolvent roads as the only feasible
remedy which was open to my mind for the resumption
of the interest on the part of the State; in the
course of these business transactions I applied to a
number of prominent houses in New York and
Philadelphia, and the agents of some foreign houses,
to induce them to join in furnishing the money with
which to conduct these settlements; and in the instance
38 of the East Tennessee, Virginia & Georgia
Road, I went to Messrs. E. D. Morgan & Co. and
made personal application to Gov. Morgan, with
whom I had formed a passing acquaintance, mainly
growing out of his interest in the bonds of the State
of Tennessee, my former residence there having
given me, as he supposed, some opportunity of
obtaining more correct information as to the probable
course of Tennessee in respect to its indebtedness;
and hence when I was ready to undertake the
39 negotiation for the settlement of the indebtedness of
the East Tennessee, Virginia & Georgia Railroad Company
to the State, my mind first fell on his house as
being a strong house of high standing and well known
in the streets of New York, and as the proper parties
to associate with me in procuring the necessary
funds. I went to the office of E. D. Morgan & Co.
on several occasions, and after conversing more or
less generally on the Tennessee debt subject, I
solicited him to make an exchange of their Tennessee
40 State bonds for railroad bonds, to be issued
by the East Tennessee, Virginia & Georgia Railroad
Company under the acts of 1869-70. I first suggested
this method of making an exchange of Tennessee
bonds for the bonds of the company on some
basis to be agreed upon to be satisfactory to all
parties, to enable the company to make a settlement
with the State and close out their indebtedness.

I told Governor Morgan that I thought that if the 41
scheme that was contemplated under the acts of
1869 and 1870, and the act for the sale of the insolvent
roads could be carried out it would certainly relieve
the State, and he agreed with me in thinking so,
and that it would enable it to restore its credit. I
cannot say whether or not Governor Morgan ever
seriously considered the subject of joining with me
in the retirement of the debt, but I can certainly
say that I explained to him fully my intention in
regard to settling with the State the debt which the 42
East Tennessee, Virginia & Georgia Railroad Company
owed to it, and he fully approved of such a
course being pursued as the best means, and I may
say the only means by which the State of Tennessee
could be placed in such a position as would enable
her to manage her debt most advantageously to all
her creditors and herself. And as I have previously
stated in this deposition, I had frequent talks with
Mr. Peter Geddes about the proposed settlement of
railroads with the State, and especially and par- 43
ticularly about the settlement of the Memphis and
Charleston Railroad Company's indebtedness to the
State, in all of which he showed the same anxiety
that I did to have the debts of the railroads to the
State settled as proposed, and the State and the
railroads divorced, so to speak, from each other. In
fact he was exceedingly solicitous to have this
separation entire and complete through settlements
made by the railroad companies under the acts of
1869 and 1870, and by the sale of the insolvent 44
roads.

19 Q. Were the sales of the insolvent roads also open and public and notorious?

A. Yes, they were.

20 Q. Did you ever know or hear of any action or proceeding being taken of any kind by any bondholder of the State of Tennessee, either in opposi-

45 tion to the settlement with the Louisville & Nashville Railroad, or the passage of the acts of 1869 and 1870 in respect to the relation between the railroads and the State or the settlements thereunder, or to the sales of the insolvent roads made by the State?

A. No, I do not think any such action or proceedings were ever taken; I certainly never heard of any.

21 Q. Have the Knoxville and Kentucky Railroad
46 and the Cincinnati, Cumberland Gap and Charleston Railroad been held by and in possession of the Knoxville and Ohio Railroad Company and the East Tennessee, Virginia and Georgia Railroad Company or R. T. Wilson and C. M. McGhee, trustees, since the time of the purchase of those respective roads?

A. They have been held continuously in the undisputed possession as to the Knoxville and Kentucky Railroad of the Knoxville and Ohio Rail-
47 road Company, and as to the Cincinnati, Cumberland Gap and Charleston Railroad of R. T. Wilson and C. M. McGhee, trustees, and afterwards of the East Tennessee, Virginia and Georgia Railroad Company as transferrees from them.

22 Q. Have you been familiar with the dealings in the New York market in respect to the State bonds of Tennessee since the year 1866?

A. I came here in the summer of 1866, and commenced business in the fall of that year, and since
48 that time I have been more familiar than almost anyone else in New York with the dealings in New York in regard to the bonds of the State of Tennessee.

23 Q. State whether there has been at any time in New York any difference in price between bonds loaned to railroad companies and bonds issued by the State for other purposes, or between those

loaned to railroads of undoubted responsibility and 49
those loaned to railroads which had been sold out
by the State.

A. There never has been any difference, nor is now any such difference in the market price of the bonds in the city of New York, except that shortly before the commencement of these suits I heard that one of the complainants was offering a small premium to exchange bonds which he had for bonds loaned to solvent railroads.

24 Q. Did you ever know or hear of any of the 50
bonds of the State of Tennessee being bought or sold as carrying any lien upon the railroad to which they had been loaned?

A. I never did, with the exception mentioned above.

25 Q. To what extent, as nearly as you are able to say, have been your dealings in bonds of the State of Tennessee?

A. It is difficult for me to estimate the exact
amount; I have bought, however for the purpose 51
of retiring the debts of the roads to the State, and for making payments for sold roads purchased, about fifteen million dollars of these bonds, and I should think that the dealings of my house, including the number bought for railroad purposes as just stated, would aggregate fully twenty millions of dollars; and I never did in the purchase of all these bonds hear of them carrying a lien on the roads to which any of them were loaned, nor did I
ever sell a bond of the State of Tennessee which I 52
represented, or authorized any one to represent, as carrying a lien upon the road, nor did I ever hear of any such understanding on the part of any purchaser from me.

26 Q. What proportion of the bonds dealt in by you were dealt in at the Stock Exchange in the City of New York?

53 A. Nearly all of them; in fact I do not now remember that we ever bought as much as a hundred thousand dollars of bonds off the Stock Exchange; the dealings were almost universally confined and always have been, as far as my information goes, to the New York Stock Exchange.

27 Q. Please state at what time since the war the State of Tennessee has paid interest upon its obligations, and during what portion of the time she has been in default thereon?

54 A. She has been in default on her interest obligations all the time since the war, except that she paid installments of interest in 1867 and 1868, and after the settlements were mainly made between the railroads and the State; she paid three installments of interest in 1874 and 1875, since which time no interest has been paid by her upon any of her obligations.

55

March 29, A.D. 1880.

Present—Counsel as before.

Cross-examination by Mr. Andrews:

28 x Q. Did not a holder of Tennessee bonds, about the year 1869 or '70, make demand or claim upon one of the railroads, of which you are an officer, or upon you as their representative in respect of their
56 liability for the payment of the Tennessee bonds issued to them?

A. No holder of a Tennessee bond issued to a railroad with which I have had any connection, or to any other railroad, ever made any demand or claim upon such railroad, so far as I have any knowledge or recollection upon the subject, until these suits were brought.

29 x Q. What did you get Mr. Southmayd's 57
opinion for?

A. I got it as to the legal status of the question—what the law meant. I gave him the Act and asked for his interpretation of it.

30 x Q. Why did you not communicate to James
A. Roosevelt and James P. Wallace that the com-
mittee of Tennessee bondholders had obtained the
opinion of Judges Davies and Davis, to the effect
that Tennessee State bonds were liens upon the
railroads to which they were issued? 58

A. Firstly, as I have stated before, I did not believe it was sound, and was so advised by Mr. Southmayd. My impression of it at the time it was obtained was that it was intended as a mere scare against somebody or other.

Further, as it was addressed to Mr. Donaldson, as
chairman of the Tennessee bondholders' committee,
it was their business to circulate it if they believed
in its soundness. Certainly I did not consider it
my business as I did not believe it. 59

31 x Q. When did you first know Mr. Peter Geddes?

A. I should think in 1874 or '5, somewhere along there, but I really do not remember.

32 x Q. Did you know him in 1875?

A. I am inclined to think I did.

33 x Q. Would you swear that you knew him before 1876?

A. I will not swear exactly when my acquain-
tance began with him more precisely than I have 60
done.

61 **April 3d, 1880.**

Present—Mr. Tweed, for Respondents.
Mr. Andrews, for Complainants.

34 x Q. Did you know Mr. Peter Geddes in 1879?

A. Yes.

35 x Q. Did you know him in 1878?

A. Yes.

36 x Q. Did you know him in 1877?

62 A. Yes; I think I did.

37 x Q. Did you know him in 1876?

A. I think so; it is my recollection that I did.

38 x Q. In 1876 how many roads in Tennessee had not delivered to the State bonds under these substitution and selling out laws?

A. As I now remember, the Memphis & Charleston, Mississippi & Tennessee, Mississippi Central, Tennessee & Pacific, and, probably, the Knoxville & Charleston, but some of these roads had delivered 63 some bonds to the State—I refer to the sold out roads.

39 x Q. Is not the Act for Substitution, referred to in your deposition as the Act of July 25, 1869, intended to be referred to as the Act of February 25, 1869?

A. I don't know where in my deposition I have referred to this Act, but I think the latter is the date of the Act.

40 x Q. Were not the substitution bonds of nearly 64 every railroad in Tennessee that issued them, except the Memphis & Charleston, and perhaps two inferior or small roads, issued and sold before 1874?

A. I can only speak definitely as to when they were issued and sold as to the following roads: The substitution bonds of the E. T., Va. & Ga., the Mobile & Ohio, Nashville & Decatur, Nashville, Chattanooga & St. Louis, Knoxville & Ohio, as I now remember, were issued and sold before 1874, or mainly so. 65

41 x Q. Is not this pamphlet the prospectus to which Chas. Tracy's opinion is attached?

A. I think so.

(Complainants' counsel offers said pamphlet in evidence, except opinion of Chas. Tracy already in evidence.)

(Marked Complainants' Exhibit No. 1, W. H. D. L., Spl. Exr.) 66

R. T. WILSON.

Subscribed and sworn to before me,
this 3d day of April, 1880.

William H. DeLancey,
Special Examiner.

I, William H. DeLancey, Special Examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the 67 above-entitled suit, in the City of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at my office, No. 52 Broadway, in the City of New York, by the counsel and witness aforesaid. That the said witness was duly cautioned and sworn in the above-entitled suit and examined, and the deposition was reduced to writing and read to the witness, and by him subscribed in my presence; 68 and that the exhibits hereto annxed, marked Complainant's Exhibit No. 1, W. H. D. L., Spl. Exr., and Respondent's Exhibits Nos. 1, 2, and 3, W. H. D. L., Spl. Exr., were introduced in evidence in said cause during the taking of said deposition.

Dated April 3, 1880.

WILLIAM H. DELANCEY,
Special Examiner.

69 **RESPONDENTS' EXHIBIT NO. 1,**
W. H. D. L., Sp'l Ex'r.

DEED OF TRUST OR MORTGAGE.

THE EAST TENNESSEE, VIRGINIA & GEORGIA RAILROAD COMPANY,

To Philo C. Calhoun, Richard T. Wilson and
70 *Adrian Iselin,*
Of the City of New York.

DATED JUNE 1ST, 1870.

THE EAST TENNESSEE, VIRGINIA & GEORGIA RAILROAD COMPANY

71 *to*

PHILO C. CALHOUN, RICHARD T. WILSON and ADRIAN ISELIN,
Trustees, of the City of New York,
Dated June 1st, 1870.

This Indenture, made this first day of June, one thousand, eight hundred and seventy, between the 72 East Tennessee, Virginia & Georgia Railroad Company, a corporation created, organized and operated under and in pursuance of the laws of the States of Tennessee and Georgia, and herein designated party of the first part, and Philo C. Calhoun, Richard T. Wilson and Adrian Iselin, all of New York city, and herein designated parties of the second part.

Whereas, the East Tennessee, Virginia and Geor-

gia Railroad Company was formed and has its ex- 73
istence by virtue of law, by the consolidation of the
East Tennessee & Virginia Railroad Company with
the East Tennessee and Georgia Railroad Company,
and whereas, by virtue of such consolidation, and
of the laws under which the said first party was
created, and of it organization, and in the exercise
of its corporate rights, powers and franchises, the
said first party became and is invested with all and
singular the corporate rights, powers, privileges and
franchises, and likewise with, and owner and occu- 74
pier of all property, real, personal and mixed, and
of all debts due, things in action, rights of way,
contracts, and all and every other interest whatso-
ever, which were held, owned and lawfully possessed
or exercised by, or which in any way or manner
belonged or appertained to the East Tennessee &
Virginia Railroad Company, and the East Ten-
nessee & Georgia Railroad Co., corporations created
and organized under and by virtue of the laws of
the State of Tennessee, with certain rights and priv- 75
ileges under the laws of the State of Georgia, as
fully and effectually as the same rights, powers,
privileges, franchises, property, debts, contracts,
rights of way and other interests were held, owned
and exercised by the said last-named corporations,
or either of them, at the time of the consummation
of the organization executing these presents, but
subject however, to all the then existing debts, liens,
and other liabilities incurred, created or suffered by
the same corporations, or either of them; such 76
debt, liens and liabilities having been, in the con-
solidation hereinbefore named, legally assumed by
said party of the first part hereto, and

Whereas, the State of Tennessee did, at various
times, extend aid by loan of the bonds of said
State unto the East Tennessee & Georgia Railroad
Company, and unto the East Tennessee & Virginia

77 Railroad Company, for which aid the said State of
Tennessee does hold a statutory lien upon the Rail-
road property and franchises of said last-named
corporations ; and

Whereas, by laws of the said State of Tennessee,
it is provided that the said corporations may make
and issue first mortgage bonds covering the Rail-
road, property, rights and franchises of their cor-
porations, which bonds may be issued as rapidly as
bonds of the State of Tennessee are surrendered up
78 to said State by such companies in part payment and
discharge of the indebtedness of said corporations
to the State of Tennessee for its bonds issued
in aid of said corporations to an amount equal to
such payments so made from time to time on ac-
count of the said indebtedness to the State, and
that such bonds so issued, being certified by the
Comptroller of the State of Tennessee, acting by
himself or through an agent in New York, as in
said act prescribed, shall be a lien pro rata in
79 amount and of equal validity and effect with the
unretired part of the said State indebtedness upon
such railroads, property, franchises, fixtures, and
materials.

And Whereas, To enable the said party of the
first part to liquidate, pay, satisfy and fully dis-
charge the said indebtedness to the State of Ten-
nessee, and also for the purpose of perfecting its
line of railway, and enlarging the capacity, and ex-
80 tending the operating facilities for the business
thereof, the said party of the first part has, by the
Board of Directors and by convention of the stock-
holders, extrusted with the control and manage-
ment of its affairs.

Resolved, To borrow money to an amount not exceeding in the aggregate the sum of ($3,500,000,) three million and five hundred thousand dollars,

and to that end to issue, and raise money by the 81
sale and negotiation of its bonds bearing date the first day of June, Anno Domini One Thousand Eight Hundred and Seventy.

The following is the form of bond and coupon, but may be issued in such denominations as to suit the convenience of the Company:

FIRST MORTGAGE BONDS.

UNITED STATES OF AMERICA.

$1,000. $1,000. 82

The East Tennessee, Virginia and Georgia Railroad Company promise to pay to the holders of this bond, on the first day of July, One Thousand, Nine Hundred ——— for value received, the sum of

ONE THOUSAND DOLLARS.

in lawful money of the United States, in the city of
New York, with interest at the rate of seven per 83
cent. per annum payable semi-annualy, on the first day of July and January of each year on delivery of the annexed interest warrant.

This bond, with others of like tenor and date, amounting in the aggregate to a sum not exceeding three millions, five hundred thousand dollars, is secured by a first mortgage on the railroad and franchises of said company, made to Philo. C. Calhoun, Adrian Iselin and Richard T. Wilson, and is
entitled to the benefit of a sinking fund as set forth 84
in the deed of trust.

This bond shall pass by delivery or by transfer on the books of the company. After a registration of ownership, certified hereon by the transfer agent of the company, no transfer except on the books of the company shall be valid, unless the last transfer be to Bearer.

85 In Witness Whereof, The said East Tennessee, Virginia and Georgia Railroad Company has caused this Bond to be signed by its President or Vice-President and Secretary, and its corporate seal to be hereunto affixed at the city of Knoxville, Tennessee, the first day of June, Anno Domini, One Thousand, Eight Hundred and Seventy.

President.

{L. S.}

86 *Secretary.*

And the coupons annexed to which bonds are in the following form :

$35.00. $35.00.

No. The East Tennessee, Virginia and Georgia Railroad Company will pay the Bearer, in the city of New York, thirty-five dollars in lawful money of the United States, on the first day of for semi-annual interest on bond
87 No.

Secretary.

FORM OF CERTIFICATE OF TRUSTEES.

We certify that this Bond is one of a series not exceeding three million, five hundred thousand dollars, described in and secured by the deed of trust or mortgage mentioned herein, bearing date, first of June, Anno Domini, One Thousand Eight
88 Hundred and Seventy, which is duly recorded.

Now Therefore, This Indenture Witnesseth, That for the purposes of securing and making more sure and certain the payment of the sums of money mentioned and provided for in the bonds bearing even date herewith, and each and every one of them, with the interest thereon accruing after actual issue, according to the true intent and meaning thereof, and in consideration of the recited premises,

the loan of said money and the sum of one dollar to 89
the said first party in hand paid by the parties of
the second part at and before the ensealing and delivery
hereof, the receipt whereof is hereby acknowledged
by the said party of the first part, the
East Tennessee, Virginia and Georgia Railroad
Company, the party of the first part aforesaid, has
granted, bargained, sold, assigned, transferred
and conveyed, and by these presents *does grant,*
bargain, sell transfer and convey unto Philo C.
Calhoun, Richard T. Wilson and Adrian Iselin, the 90
parties of the second part aforesaid, their heirs and
assigns forever, and to their successor or successors
in the trust and assigns, all and singular, the estate
and property, real, personal and mixed, and all
fixtures, rights, privileges; franchises, easements,
rights under leases, terms and parts of terms, agreements,
covenants and contracts of all and every
kind, held and owned or occupied by the said party
of the first part, including all and singular the Railroads
and Railways of said Company from and including 91
the terminus and depot at Bristol, in the
County of Sullivan, State of Tennessee, and thence
to the City of Chattanooga, in the County of Hamilton,
in the State of Tennessee, and including the
line from Cleveland, in the County of Bradley,
State of Tennessee, to the City of Dalton, County
of Whitfield, State of Georgia.

TOGETHER WITH ALL AND SINGULAR, The lands,
tracks, lines, rails, bridges, ways, rights of way,
and materials, buildings, piers, wharves, erections, 92
fences, walls, fixtures, privileges, franchises, rights
and interests, real estate, personal property, choses
in action, leasehold and other things, of, and belonging
to said party of the first part, of every
kind, nature and character, in either of the said
States of Tennessee and Georgia; and *all* the tolls,
income, issues and profits, to be had or derived

93 from the same, or any [illegible] or portion thereof, or from any part or portion of said term or terms, or either thereof; and all right to receive or recover the same, and all railway stations and depots, with all the appurtenances necessary or convenient for the sole, complete and entire use and operation, as well as maintenance of the said roads or railways, owned or leased by said first party; and also all the locomotives, engines, tenders, cars, carriages, tools and machinery, belonging or appertaining to said
94 railroads and railways so owned as aforesaid; (excepting and reserving therefrom so much of the rolling machinery and other personalty as was purchased from the Government of the United States, in part, by the said East Tennessee and Virginia Railroad Company, and in part by the East Tennessee and Georgia Railroad Company, in or about the Autumn of the year eighteen hundred and sixty-five;) and also all improvements or additions, made or to be made, to any or all of said properties, es-
95 tates, railroads or railways, and their appurtenances, by said party of the first part or by others; also all and every other estate, interest, property or thing, as well real or mixed as personal, which the said party of the first part own and hold, or may and shall hereafter acquire and hold, necessary or convenient for the use, occupation, operation and enjoyment of all or any of its said railroads, railways, leases and property, rights, privileges and franchises, or any part or portion thereof; and also
96 all rights and privileges to use the said road-beds, tracks, sidings, turnouts and switches, constructed at the execution of these presents, or which may or shall be hereafter constructed for the convenient use of said railroads or railways, or any of them, owned or operated by said first party, as fully and as effectually as the said Company, party of the first part,

is or may be by law entitled to have or acquire. 97
But nothing herein contained shall be held, understood or construed to prevent said party of the first part from selling, hypothecating, or otherwise disposing of any money or securities received in payment of shares of capital stock, or from proceeds of any debts or claims now due to said Company, or from disposing of, by and with the consent in writing of the parties of the second part, or their successors in the trust, any lands or other property and
effects not essential or necessary to be retained for 98
the said roadways, depots or station grounds, nor required for the construction or convenient use of the said railways, nor from selling shares, nor from collecting moneys due on capital stock, subscriptions or otherwise, or for other things, provided the said first party shall diligently proceed to apply all such means and proceeds to improving and equiping of said railway and other like necessary purposes thereof; and provided, also, that no default shall
have been made, and at the time remain, in the pay- 99
ment of the interest or principal of any of the bonds hereby secured. But even after default in the payment of interest, the Trustees shall have full power, in their discretion, upon the written request of the party of the first part, to convey, by way of release or otherwise, to the persons designated by the said party of the first part, any lands acquired or held for the purposes of stations, depots, shops or other buildings, and no longer required therefor; and
shall also have power to convey as aforesaid, on like 100
request, any lands or property which, in the judgment of the Trustees, shall not be necessary for use in connection with said railroad, or which may have been held for a supply of fuel, gravel or other material, and also to convey as aforesaid, on like request, any lands not occupied by the then existing track, which may become disused by reason of

101 a change of the location of any station-house, depot,
shop or other building connected with the said
railroad, or any straightening or alteration of the
line of the road and such land occupied by the track,
and adjacent to such station-house, depot, shop or
other buildings, as the said party of the first part
may deem it expedient to disuse or abandon by reason
of such change, and to consent to any such
change, and to such other changes in the location
of the track, or depot, or other buildings, as shall
102 have become expedient; and to make and deliver
the conveyances necessary to carry the same into
effect; provided that any lands which may be acquired
for permanent use, in substitution for any so
released, shall be conveyed to the Trustees, upon
the trusts of these presents; and the Trustees shall
also have full power to allow the said party of the
first part from time to time to dispose of such
portions of the equipments, machinery and implements
at any time held and acquired for the use of
103 the said railroad as may have become unfit for use.

To Have and to Hold the said estate, property,
rights, privileges, franchises and interest above conveyed
or transferred or intended so to be, together
with all and singular the emoluments, income and
advantages, tenements, hereditaments and appurtenances
thereunto belonging, or in anywise appertaining,
and the reversion and reversions, remainder
and remainders, rents, issues and profits thereto,
104 unto the said Philo C. Calhoun, Richard T. Wilson
and Adrian Iselin, parties of the second part, and
their successors and assigns, on the trusts, and for
the uses and purposes herein declared and none
other.

And it is hereby declared that the said bonds for three million, five hundred thousand dollars hereby secured, are to be issued under and in pursuance of

and in accordance with the provisions of the Act of 105
Legislature of the State of Tennessee, entitled "an
Act to liquidate the State debt contracted in aid of
Railroad Companies in the State of Tennessee,"
passed February 25th, 1869, and the Acts amendatory thereof, and are to to be certified by
the Comptroller of the State of Tennessee,
either by himself or an agent in New York,
and registered in a book kept for that purpose, as
provided by the second section of said Act of
February 25th, 1869, and that the said bonds hereby 106
secured are to be issued only as fast as permitted by
said Act of February 25th, 1869, that is to say, in
amounts from time to time equal to the payments
made by the said company to the State of Tennessee,
on account of the company's indebtedness to the
State for its bonds issued in aid of said railroads by
surrender of State bonds in discharge of such indebtedness as permitted by said Acts, and that such
bonds hereby secured, which shall be so from time
to time issued, before the entire discharge of the 107
company's said debt to the State, are to be a lien
pro rata in amount and of equal validity and effect
with the unretired part of the said State indebtedness upon the said railroads, property, franchises
and other things hereby mortgaged, as by said Act
is provided.

PROVIDED ALWAYS that these presents are made
and executed upon the express condition that if
the said party of the first part shall well and truly 108
pay or cause to be paid to the holders of the said
bonds or obligations intended to be secured hereby,
and each and every of them after the same shall be
issued, the principal sums of money therein respectively mentioned, at the maturity thereof, according
to their true intent and meaning, with the interest
thereon accruing at the times and in the way and

109 manner therein, and in the coupons provided, according
to the true intent and meaning of these presents,
that then and from henceforth this *Indenture*
and the estate hereby granted shall cease, determine
and be utterly void and of none effect, without any
other release or formal reconveyance, re-entry, acknowledgment
of satisfaction, or any other act
whatsoever. And the said party of the first part,
in consideration of the premises, hereby covenants
and agrees to and with the said Philo. C. Calhoun,
110 Richard T. Wilson and Adrian Iselin, their successor
and successors in said trust and assigns, that
the said first party will at any time or times hereafter,
upon the reasonable request of the said parties
of the second part, their successors or assigns,
execute and deliver, or cause to be executed and delivered,
all and every such further and other reasonable
deeds, conveyances, assignments and assurances
in the law for the better and more effectual
vesting and confirming the premises, property,
111 rights and interests hereby granted or intended so
to be, and especially for conveying any property
subsequently to the date hereof acquired by the said
party of the first part, and comprehended in the description
contained in this indenture, if any such
there be, to the said parties of the second part as
trustees for the uses and purposes of this indenture,
and to their successors and assigns, as by them, or
their counsel learned in the law, shall be reasonably
devised, advised or required ; and further, that the
112 said first party will do and perform all the things
on the part of the said first party to be done and
performed as hereinbefore set forth, and faithfully
apply all the money and other things arising from
the issue of said bonds, to the purposes hereinbefore
recited or mentioned as the objects thereof ; and
further, that the said first party will pay unto the
holder or holders of the said bonds respectively, the

said principal sums of money therein respectively 113
mentioned and as expressed therein, and the interest
thereon as the same shall become due and payable,
and the moneys to the trustees of the Sinking
Fund as hereinafter provided ; and it is hereby further
covenanted, granted, declared and agreed, that
in case of default in payment thereof, either principal,
interest money, or sinking fund secured hereby,
and the continuance of such default for six months
after such default shall first have been made or suffered,
the said first party shall and will, on demand 114
made after the expiration of such six months by
the parties of the second part, their successors or
assigns, trustee or trustees, for the time being, or
their agent or agents, duly authorized in writing.
assign and transfer in due form to them or to their
agent or agents, so authorized, the actual possession
of all the herein granted and conveyed property and
premises, and herein recited and mentioned, or intended
to be embraced in this trust; and further, that
the expense of taking, holding and managing said 115
property and premises if possession is taken, shall be
paid from the income, and if necessary, from the
sale of the property and premises, by the said trustee
or trustees, as the case may be, for the time
being ; and further, that in such case, the parties
of the second part, their successors in said trust and
assigns, shall and may, by themselves or their
officers and agents, take and receive, collect and
have the income and profits of the said railways and
other property, first applying the same to the pay- 116
ment and discharge of all current necessary operating
expenses and repairs, including the expenses
hereinbefore mentioned, and all taxes and other
similar charges ; and next to the payment of all
sums of money due and payable upon the aforesaid
bonds, issued by said first party, and hereby secured
according to the tenor thereof ; and further, that

117 the said parties of the second part, their successors in said trust, or assigns, having entered as hereinbefore mentioned, into the full possession of the premises, property and estate hereby conveyed, or without having entered into such possession (the said default still continuing) at his or their discretion, and with the approbation of such Court or Courts of Record, either State or Federal, as may have jurisdiction over like trusts, in the State of Tennessee, *may*, or on the written request of the
118 holders of at least one-third of the bonds hereby secured, and then outstanding unpaid, *shall* proceed to sell and dispose of, or cause to be sold and disposed of, all of the premises, property rights, interests, franchises and estate hereby conveyed, or so much thereof as shall be necessary to pay and discharge the principal and interest according to the tenor thereof, of all of such of said bonds hereby secured and then outstanding as may have been issued by said first party, together with all benefit
119 and equity of redemption of said party of the first part therein, by public auction, either in the City of Knoxville, Tennessee, or in the City of New York, to the highest bidder, having previously given public notice of the time, place and terms of said sale, and of the property to be sold, by publishing the same in at least two newspapers of good general circulation, in each of the said cities, and wherever else the trustees may deem expedient or required by law, for the period of at least ninety days pre-
120 vious to such sale; and as the attorney or attorneys of the said first party, for that purpose by these presents, duly constituted and appointed, make, execute and deliver to the purchaser or purchasers thereof, a good and sufficient deed or deeds of conveyance in the law for the same, granting and assuring to said purchaser or purchasers all such estate, right, property, franchises and interest, and to the

same extent as the said first party had therein at the date hereof, or at any time subsequent, and also a good and sufficient transfer and assignment of said personal property, choses in action, contracts and leases.

And out of the moneys arising from such sale or sales, it shall be lawful for and the duty of such Trustees, after first retaining the costs and charges of advertisement, and of the said sale of the premises, and all other sums of money which said trustees, or their successors in said trust, may have been obliged to pay, by reason of their taking possession of, and operating said premises, and a reasonable allowance for their own services, and for legal professional advice, aid and assistance, in effecting and consummating said possession, operation and sale; and also to pay, in so far as such proceeds shall suffice therefor, the principal and interest, whether then due or yet to become due, which shall then remain unpaid on said bonds remaining issued and outstanding, and hereby secured as aforesaid, for the benefit of, and to be paid to the holders thereof, and then restore the residue of the said proceeds, if any there be, to the said party of the first part; it being hereby expressly understood that the bonds issued by said first party, and secured by these presents, shall be ratably receivable, if desired by the holders thereof, in payment of said sale by said trustees or their successors, to the extent of the amount of the net proceeds of such sale properly applicable to the payment of such bonds respectively; and the said sale, when fully consummated, shall be a perpetual bar, both in law and equity, against the said party of the first part, and all persons claiming or to claim the premises, or any part thereof, by, through or under said party of the first part, subsequent to the date of these presents; *and in no*

125 *case* shall any claim or advantage to be taken of any valuation, appraisement or extension laws by the party of the first part, nor any injunction or stay of lawful proceedings hereon, nor shall any process be applied for or obtained by the said party of the first part to prevent or obstruct such lawful entry or sale as aforesaid, but the same are hereby expressly waived by the said party of the first part.

The party of the first part further agrees that at the expiration of two years from the date hereof
126 and every twelve months thereafter, an amount of money derived from the net earnings of said road, equal to one per cent. on the amount of bonds issued and outstanding under provisions hereof shall be set apart as a sinking fund for the redemption of the bonds secured by these presents, and it shall be the duty of the party of the first part to invest the said sinking fund and the interest accruing thereon in the bonds herein secured, at a rate not exceeding ten per cent. above par and accrued interest. And
127 the bonds so purchased shall be immediately registered, stamped or endorsed as irrevocably belonging to said sinking fund, and not further transferable, and said bonds and coupons when stamped, registered and assigned to said sinking fund, shall remain in force only for the purposes thereof, and shall by said stamping, transferring or registering, become void and cancelled thereafter for all other purposes. In case the bonds herein secured cannot be purchased as above within three months after
128 maturity and payment of money for account of the sinking fund, then shall such other good securities, as the parties hereto may agree upon, be purchased, and assigned to said sinking fund, and all shall be held deposited with such depository and in manner as the parties hereto shall from time to time mutually agree upon, and the interest accruing on the sinking fund shall be collected by the party of the first part and invested as hereinbefore provided.

AND THIS INDENTURE further witnesseth, that 129 these presents and the said bonds hereby secured or intended so to be, are made, executed and issued or delivered, upon the terms, conditions and agreements following, that is to say:

First. That the actual possession, use, management and control of all the hereinbefore granted estate, property and premises, shall be, and remain in and with the said party of the first part, so long as the bonds so issued shall be and remain without forfeiture or default in respect of interest or otherwise. 130

Second. That in the case of any vacancy in the said trusteeship hereunder, by the incapacity to act, death or resignation of either of the said trustees, or from any other cause, all his estate, right, interest, power and control, shall be thereupon divested, and cease and determine, but without destroying, or without any discontinuance of the trust: and the said party of the first part *shall*, or upon default 131 or omission to take proceedings therefor for thirty days after notice of such vacancy or incapacity, the holders of not less than thirty-three and one-third per centum in amount of said bonds hereby secured, *may* apply to any of the Courts having jurisdiction in the premises, in the State of Tennessee, to appoint a new Trustee or Trustees to supply the vacancy; and such proceedings may be had, and appointments made, as often as the like occasion may require the appointment of a Trustee to execute the 132 trust herein declared; and when so appointed, such new Trustee shall thereupon become vested for the purposes of the said trust, with all the estate, rights, interests, power, property and control, hereby conveyed or granted to, or vested in the said Philo C. Calhoun, Richard T. Wilson and Adrian Iselin, by these presents, without any further as-

133 surance, grant or conveyance of the same as fully and effectually as if such appointment had been originally made herein. But if the same shall be necessary, both the said party of the first part, and such new Trustee, or either of them, shall make, execute and deliver all necessary conveyance and agreements, and grants and powers, and authorities for that purpose.

And it is further understood and agreed by and between the parties to these presents, that the said
134 parties of the second part, their successor or successors in said trust, shall only be accountable for reasonable diligence in the management thereof, and shall not be responsible for the acts or negligencies of any agent or agents, necessarily employed by them, when such agent or agents are selected with proper discretion or with the approbation of the said party of the first part. And the officers of the said Railroad Company shall have at all times the right to inspect the books kept by the receivers of the
135 road and their agents.

And This Indenture further witnesseth that the said parties of the second part hereby accept the aforesaid trusts, and also covenant and agree to and with the said party of the first part, to execute the same upon the terms and conditions hereinbefore as well as hereinafter mentioned and provided, and which said terms and conditions are hereby mutually agreed to and upon, by both of the parties to
136 these presents, and that the said trustees and their successors may employ and advise with legal counsel, and that the expense thereof, as well as other personal expenses of the said Trustees, for the time being, in the discharge of said trusts, and all other, their reasonable and proper charges and expenses thereof, including their compensation, shall be paid by the party of the first part, as they are incurred,

or otherwise out of the trust, estate or income on 137
which or to which they are chargeable; and likewise that the said trustees or their successors shall not be required to act in the execution of said trusts, except at their own option, unless the party requesting so to do shall furnish them reasonable indemnity against the loss, costs, trouble and expense they may incur, or be at in so doing; and that when called upon to act they shall be, and are hereby authorized and invested with full power, at their option, under advice of legal counsel, to submit all 138
questions of law or fact arising in the execution thereof to arbitrators; that they, in the execution of said trusts, may employ agents and attorneys in fact to act in their behalf, whenever required to act as aforesaid, except when they may be or are required by law to act personally; and also, that all covenants and agreements hereinbefore contained or implied may be executed specifically by and through any of the said Courts of competent jurisdiction as practised by them in like cases of trusts. 139

It is fully understood that any two of the three Trustees aforesaid, or their successors, shall be sufficient for carrying into effect the purposes of this trust.

In Testimony Whereof the said party of the first part, in pursuance of authority, given by law, and in conformity with the order of the Board of Directors, has caused this Indenture to be signed by its President, or Vice- 140
President, and , Secretary, and the Corporate Seal of the Company affixed thereto, and the parties of the second part have hereunto subscribed their names and affixed their seals the day and year first in this Indenture mentioned.

141 EAST TENNESSEE, VIRGINIA AND GEORGIA RAILROAD CO.,

By **THOS. H. CALLAWAY,** [SEAL.]
President.

JAMES G. MITCHELL, [SEAL.]
Secretary.

W. C. HENNEGAR,
his
TOLBERT × HAMILTON.
mark.

142 **P. C. CALHOUN,** [SEAL.]
R. T. WILSON, [SEAL.]
ADRIAN ISELIN, [SEAL.]
Trustees.

F. E. LATHROP,
CHARLES NETTLETON,
As to P. C. C., R. T. W. and A. Iselin.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK. } ss.:

143 Be it remembered that on this 1st day of June, A. D. 1870, before me, Charles Nettleton, a Commissioner resident in the City of New York, duly commissioned and qualified by the executive authority and under the laws of the State of Tennessee, to take the acknowledgment of deeds, etc., to be used or recorded therein, personally appeared Philo C. Calhoun, Richard T. Wilson and Adrian Iselin, parties to the foregoing deed, with each of 144 whom I am personally acquainted, who severally acknowledged that they executed the said deed for the purposes therein mentioned as Trustees therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

[SEAL.] CHARLES NETTLETON,
Commissioner for Tennessee in New York,
117 Broadway, New York City.

STATE OF NEW YORK, } ss.: 145
CITY AND COUNTY OF NEW YORK. }

Be it remembered that on this 1st day of June, A. D. 1870, before me, Charles Nettleton, a Commissioner resident in the City of New York, duly commissioned and qualified by the executive authority and under the laws of the State of Georgia, to take the acknowledgment of deeds, etc., to be used or recorded therein, personally appeared Philo C. Calhoun, Richard T. Wilson and Adrian Iselin, to me personally known to be the individuals named 146 in and who executed the foregoing deed, who severally acknowledged that they executed the same for the purpose therein named and mentioned as Trustees therein described.

GIVEN under my hand and official seal,
this 1st day of June, A. D. 1870.

[SEAL.] CHARLES NETTLETON,
Commissioner for Georgia in New York,
117 Broadway, New York City. 147

STATE OF TENNESSEE, }
KNOX COUNTY. }

On this, the 8th day of May, 1871, before me, J. L. A. Blany, Clerk of the County Court, in and for the County and State aforesaid, personally appeared J. G. Mitchell, to me personally known and to me known to be Secretary of "The East Tennessee, Virginia and Georgia Railroad Company," and 148 being by me duly sworn, did depose and say, that he is now, and was at the time the foregoing Deed in Trust was executed, Secretary of said Corporation, and that Thomas H. Callaway was at that time its President; that they executed said Deed for the purposes in said Deed set forth and expressed for and in behalf of said Corporation, subscribed their

149 names as Secretary and President, and affixed the seal of said Corporation thereto, by authority of said Corporation; and at the same time Wm. C. Hennegar and Tolbert Hamilton, personally known to me to be the subscribing witnesses to said Deed appeared before me, and being duly sworn, severally deposed and said, that they were well acquainted with the aforesaid J. G. Mitchell and Thomas H. Callaway, and knew that they were Secretary and President of "The East Tennessee, Virginia and
150 Georgia Railroad Company," and that they executed the foregoing Deed in Trust in the manner hereinbefore stated, and delivered the same as the Act and Deed of said Corporation for the purposes in said Deed set forth and expressed, on the day it bears date.

WITNESS my hand and Official Seal of
[SEAL.] office, at office in Knoxville, the
8th day of May, 1871.

151 J. L. A. BLANY, *Clerk.*

STATE OF TENNESSEE, }
Sullivan County. }

I, OWEN M. WHITE, Register for said County, do hereby certify that I received and re-registered the foregoing Mortgage or Deed of Trust, and the certificates thereto attached on the 12th day of May, 1871, at 7 o'clock A. M., and the same is entered in Note Book No. 2, page
152 75, and re-registered in Book Volume 23, commencing on page 99.

Given under my hand, at office at Blountville, 12th day of May, 1871.

O. M. WHITE, *Register.*

The foregoing Deed of Trust or Mortgage came to hand on the 12th day of May, 1871, at 3 o'clock

P. M., and was duly re-registered in Book "R," page 19, in the Register's Office of Carter County, Tennessee. 153

A. L. HILTON, *Register*.

By WM. R. FITZSIMMONS, D. R.

STATE OF TENNESSEE,
Greene County. }

Register's Office, May 13, 1871, 10 o'clock, A. M. 154
Then was the foregoing Mortgage or Deed of Trust received for registration and duly re-registered in Book No. 38, commencing on page 1, and noted in Book No. 3, page 20.

Given under my hand, at office in Greenville, Tennessee, this 13th day of May, 1871.

THOS. LANE, *R. G. C.*

155

STATE OF TENNESSEE,
Washington County. }

Register's Office, May 13, 1871, 6 o'clock, P. M. Then was the foregoing Instrument or Mortgage received for registration and re-registered in Vol. 42, page 537 and following pages, and entered in Note Book "C," page 28.

Given under my hand, at office at Jonesboro, this day.

156

J. W. C. DEAKE, *Deputy County Register*.

STATE OF TENNESSEE,
Hamblen County. }

I, L. B. SMITH, Register of the County aforesaid, do hereby certify that the foregoing Instrument or

157 Mortgage was received in my office for registration, at 10 hr. 30 min., A. M., May 15, 1871, and duly registered in Deed Book No. 1, page 86.

L. B. SMITH, *Register*.

STATE OF TENNESSEE,
Hawkins County. }

Register's Office, May 16, 1871, at 8 o'clock, A. M. Then this Deed of Trust, with the Clerk's 158 Certificate, was received and re-registered in Book "B," commencing on page 512, etc.

JOHN WALKER,
Register for Hawkins County.

ROGERSVILLE, May 16, 1871.

STATE OF TENNESSEE,
McMinn County. }

159 12:10 P. M., May 18, 1871. Then was the foregoing Mortgage Deed received and noted in Note Book "B," and registered in my office in Book "P," pages 507, etc.

WM. C. DAVIS, *Register*.

STATE OF TENNESSEE,
Hamilton County. }

160 Register's Office, the 18th day of May, 1871, at 8 o'clock, P. M. Then was the foregoing Instrument and Certificates received for registration, and is now of record in Book "U," pages 400 and following.

Witness my hand, at office in Chattanooga, the day and date last above written.

JOHN F. HAMILL, *Register*.

Per J. E. DEARING, D. R.

STATE OF TENNESSEE, } 161
James County. }

Register's Office, the 19th day of May, 1871, at 5:20 o'clock, A. M. Then was the foregoing Instrument of Mortgage and the Certificates of Probate received for registration, and is now of record in Book No. 1, commencing on page 5 and following.

Witness my hand, at office at Ooltewah,
Tenn., the day and date last above
written. 162

JOHN G. RUSTON, *Register.*

STATE OF GEORGIA, }
Whitfield County. }

Clerk's Office, Superior Court, Whitfield county, May 19th, 1871, 10 o'clock, A. M. This was the foregoing Instrument of Mortgage and the Certificates of Probate received for registration, and is now of record on page 1 in Book "G" of this office, and re-registered for supposed insufficiency of 163 probate, on page 153 in Book "G," and following.

Witness my hand, at office this day and
date above written.

H. C. HAMILTON, *Clerk D. C. W. C.*

STATE OF TENNESSEE, }
Loudon County. }

The foregoing Mortgage Deed, together with the Certificates of Probate thereto, are duly noted in 164 the Register's office for Loudon county, in Note Book "A," page 11, at 7 o'clock, P. M., May 19th, 1871, and registered in Record Book "A," commencing on page 72 and following, same day.

Given at office, in Loudon, this May 19th,
1871.

FRANCIS BEALS, *Register for Loudon Co.*

165 STATE OF TENNESSEE,
Roane County. }

Register's Office, May 20th, 1871, 8 o'clock, A. M. Then was the foregoing Instrument of Mortgage received for registration, and noted in Note Book "A," page 107, and with the Certificates of Probate thereon registered in my office in Book "R," commencing on page 255.

Given under my hand, at office at Kingston, date last above written.

166 J. C. CLARK, *Register for Roane Co.*

STATE OF TENNESSEE,
Jefferson County. }

Register's office, May 24, 1871. Then was the within Mortgage and Clerk's Certificate of Probate recorded in Deed Trust Book No. 1, on page 193, which came to hand May 24, 1871, at 4 o'clock, P. M.

167 Given under my hand, at office in Dandridge, the day and date above written.

W. M. HILL, *Register for Jefferson Co.*

STATE OF TENNESSEE,
Granger County. }

Register's office, May 25, 1871. Then was the within Instrument and Certificate of Probate recorded in Note Book "A," page 146, at 7 o'clock, P. M., and registered in Trust Book No. 1, commencing on page 76. 168

Given under my hand, at office in Rutledge, the 25th day of May, 1871.

HENRY SHEPERD, *Register of Granger Co.*

STATE OF TENNESSEE, } 169
Knox County. }

I, CHARLES MORROW, Register of Knox county, do hereby certify that the foregoing Mortgage was received at my office, at 8 o'clock, A. M., May 27, 1871, and registered in Mortgage Book "A," commencing on page 508.

Witness my hand, at office in Knoxville, this 27th May, 1871.

CHARLES MORROW, *Register for Knox Co.* 170

STATE OF TENNESSEE, }
Monroe County. }

I, E. D. MALONE, Register of Monroe county, do hereby certify that the foregoing Mortgage was received at my office, at 7 o'clock, P. M., May 29, 1871, and registered in Book "A," for Trust Deeds, commencing on page 190.

Witness my hand, at office in Madisonville, day and date last above written. 171

E. D. MALONE, *Register.*

STATE OF TENNESSEE, }
Bradley County. }

I certify that the foregoing Mortgage was received this day at 6 o'clock, P. M., and noted in Book "A," page 64, and with the Clerk's Certificate, is duly noted for registration in my office, in Book "B," pages 139–40, etc. 172

JOSEPH W. HICKS, *County Register.*

May 30, 1871.

173 **RESPONDENT'S EXHIBIT No. 2.**

W. H. D. L.. Sp'l Ex'r.

KNOXVILLE & OHIO RAILROAD.

Copy of Mortgage or Deed of Trust.

This indenture made on this, the first day of January, 1876, between the Knoxville & Ohio Railroad
174 Company, a corporation created, organized and operated under and in pursuance of the laws of the State of Tennessee, and herein designated party of the first part, and R. T. Wilson, of New York City, in the State of New York, and W. T. Walters, of the city of Baltimore, in the State of Maryland, and herein designated parties of the second part, witnesseth, that, whereas, at a general meeting of the stockholders of said Knoxville & Ohio Railroad Company, duly and regularly convened on the 24th
175 day of September, 1875, and by several adjournments continued till the 11th of November, ensuing, it was resolved that the directors shall forthwith prepare and cause to be issued, coupon bonds bearing seven per cent. (7%) interest payable semi-annually, and payable to bearer, to the amount of ($500,000) five hundred thousand dollars, and secure the same by mortgage or deed of trust upon all the property and franchises of the company, with such conditions and provisions as the Board of Directors
176 shall deem proper and judicious; and whereas said board of directors, in the execution of the duty enjoined upon it by said resolution, have issued one thousand bonds for ($500), five hundred dollars each, bearing even date with these presents and falling due thirty years after date, with coupons attached; bearing interest at seven per cent (7%) per annum, payable semi-annually, on the first days of

January and July, in each and every year, in the 177
city of New York, subject to be called in and paid at any time at the option of the party of the first part, after thirty days notice to be given, as stipulated in said bonds, to be put upon the market and sold in the manner and for the purposes expressed in said resolution, the payment whereof the party of the first part is desirous of securing; and which said one thousand bonds, bearing date as aforesaid, are of like tenor and in the form following, to-wit:

178

No. $500.00.

UNITED STATES OF AMERICA.

THE KNOXVILLE & OHIO RAILROAD COMPANY.

First Mortgage Bond.

The Knoxville & Ohio Railroad Company, for value received, promises to pay the bearer hereof, on the 1st day of January, one thousand nine hundred and six, five hundred dollars, lawful money 179
of the United States, in the city of New York, with interest thereon in the meantime at the rate of seven per cent. per annum, payable in like lawful money, in the city of New York, semi-annually, on the first days of January and July of each year, on presentation and surrender of the annexed interest warrants. This bond is one of a series numbered from one to one thousand inclusive, for five hundred dollars each, amounting in the aggregate to five hundred thousand dollars, issued of this date, and 180
which are secured by a Deed of Trust or Mortgage bearing even date herewith, conveying in trust unto William T. Walters, of Baltimore, Maryland, and Richard T. Wilson, of the city and State of New York, all the property and franchise of said Knoxville & Ohio Railroad Company; and upon default in the interest payments hereon, this bond becomes

181 due and payable, as defined in said mortgage, or Deed of Trust. It is understood and agreed by the holder of this bond that the said Knoxville & Ohio Railroad Company, has the privilege of paying the same and accrued interest at any time before maturity, by giving notice of their wish to do so for thirty days in one newspaper each in New York City, and Knoxville, Tennessee, and that interest on this bond will cease at the end of said thirty days' notice.

182 In witness whereof the said Company has hereunto affixed its corporate seal and caused this bond to be signed by its President and Treasurer, this first day of January, 1876.

President.

Treasurer.

183 And the coupons annexed to which bonds are in the following form :

$17.50. $17.50.

The Knoxville & Ohio Railroad Company, will pay to the bearer in the City of New York, seventeen $\frac{50}{100}$ dollars in lawful money of the United States, on the first day of for semi-annual interest on bond No.

184 *Treasurer.*

Which coupons are to be issued with the lithographed signature of the Treasurer of said Company, and, when thus issued by said company, are to be as binding upon it as if such signature were written by the Treasurer.

Form of Trustees' Certificate. 185

We hereby certify that this is one of the bonds issued under the deed of trust or mortgage therein referred to.

Trustees.

Now, therefore, this indenture witnesseth that, for the purpose of securing and making certain the payment of the sums of money mentioned and provided for in the said one thousand bonds, and each 186
and every one of them, with the interest accruing thereon, after the same shall be sold according to the true intent and meaning thereof, and in consideration of the recited premises, the purchase money to be paid therefor, and the sum of one dollar to the said first party in hand paid by the parties of the second part at and before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged by the said party of the first part, the said Knoxville and Ohio Railroad Company, the party of 187
the first part aforesaid, hath granted, bargained, sold, assigned, transferred and conveyed, and by these presents doth grant, bargain, sell, assign, transfer and convey unto the said R. T. Wilson and W. T. Walters, the aforesaid parties of the second part, as joint tenants and not as tenants in common, and the survivor of them, their heirs and assigns forever, and to their successor or successors, all and singular the estate and property, real, personal and mixed, and [all privileges, rights, franchises, easements, 188
rights under leases, terms and parts of terms, agreements, covenants and contracts, of all and every kind, held and owned or occupied by the said party of the first part, including all and singular the railroads and railways of said Company, from and including the terminus and depot at Knoxville, in the County of Knox and State of Tennessee, and thence

189 to Careyville, in Campbell County in said State, together with all and singular the lands, tracts, lines, rails, bridges, ways, rights-of-way and materials, buildings, piers, wharves, erections, fences, walls, fixtures, privileges, franchises, rights and interests, real estate, personal property, choses in action, leasehold and other things of and belonging to said party of the first part of every kind, nature and character; and all the tolls, income, issues and profits to be had or divided from the same or any part
190 or portion thereof, or from any part or portion of said term or terms, or either thereof; and all right to receive or recover the same; and all railway stations or depots with all the appurtenances necessary or convenient for the sole, complete, and entire use and operation as well as maintenance of said road; and also all the locomotives, engines, tenders, cars, carriages, tools and machinery belonging or appertaining to said railroad or railway; and also all improvements
191 or additions made or to be made to any or all of said properties, estates, railroads or railways and their appurtenances by said party of the first part or by others, and all and every estate, interest, property or thing as well real or mixed as personal, which the said party of the first part own and hold, or may and shall hereafter acquire and hold, necessary or convenient for the use, occupation, operation or enjoyment of all or any of its said railroads, railways, leases and property, rights, privileges and
192 franchises or any part or portion thereof; and also all rights and privileges to use the said road-beds, sidings, tracks, turnouts and switches constructed at the execution of these presents, or which may or shall be hereafter constructed for the convenient use of said railroads or railways or any of them, owned or operated by said first party, as fully and effectually as the said company, party of the first

part, is or may be by law entitled to acquire or have. 193
But nothing shall herein be held, understood or construed to prevent said party of the first part from selling, hypothecating or otherwise disposing of any money or securities received in payment of shares of capital stock, or from proceeds of any debts or claims now due to said company, or from disposing of by and with the consent in writing of the parties of the second part, or successors in the trust, any land or other property and effects not essential or necessary to be retained for the said road-way, depots or station 194
grounds nor required for the construction or convenient use of the said railways, nor from selling shares, nor from collecting moneys due on capital stock subscriptions or otherwise, or for other things, provided the said first party shall diligently proceed to apply all such means and proceeds to improving and equipping said railway and other like purposes thereof, and provided also that no default shall have been made and at the time remain in the payment of the interest or principal on any of 195
the bonds hereby secured. But even after default in payment of interest the trustees shall have full power in their discretion, upon the written request of the party of the first part, to convey by way of release or otherwise to the persons designated by the said party of the first part, any lands acquired or held for the purposes of stations, depots, shops or other buildings and no longer required therefor, and shall also have power to convey as aforesaid on like request any bonds or property, which, in the judg- 196
ment of the trustees shall not be necessary for use in connection with said railroad or which may have been held for a supply of fuel, gravel or other material, and also to convey as aforesaid on like request any lands not occupied by the then existing track which may become disused by reason of a change of the location of any station house, de-

197 pot, shop, or other building connected with the said railroad or any straightening or alteration of the lines of the road, and such land occupied by the track and adjacent to such station-house, depot, shop, or other buildings as the said party of the first part may deem it expedient to disuse or abandon by reason of such change, and consent to any such change and to such other changes in the location of the track, or depot, or other buildings, as shall have become expedient,
198 and to make and deliver the conveyances necessary to carry the same into effect; provided that any lands that may be acquired for permanent use in substitution for any so released shall be conveyed to the trustees upon the trusts of these presents. And the trustees shall also have full power to allow the said party of the first part from time to time to dispose of such portions of the equipments, machinery and improvements at any time held or acquired for the use of said railroad as may have become
199 unfit for such use. To have and to hold the estate, property, rights, privileges, franchises and interests above conveyed or transferred, or intended so to be; together with all and singular the emoluments, income and advantages, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, the said R. T. Wilson and W. T. Walters, parties of the second part, or the survivor of them,
200 and their successors and assigns, on the trust and for the uses and purposes herein declared, and none other; provided always, that these presents are made and executed upon the express condition that if the said party of the first part shall well and truly pay or cause to be paid to the holders of the said bonds or obligations intended to be secured hereby, and each and every of them, after the same

shall be issued, the principal sums of money therein 201
respectively mentioned, at the maturity thereof,
according to their true intent and meaning, with
the interest thereon accruing, at the times and in
the way and manner therein, and in the coupons
provided, according to the true intent and meaning
of these presents, that then and thenceforth this
indenture and the estate hereby granted shall cease,
determine, and be utterly void and of none effect,
without any other release or formal reconveyance,
re-entry, acknowledgment of satisfaction, or any 202
other act whatsoever.

In case default shall be made in the payment of
any half year's interest on any of the bonds aforesaid
at the time and in the manner in the coupons
issued therewith is provided, the said coupon having
been presented and the payment of the interest
therein specified having been demanded, and that
such default shall continue for the period of six
months after the said coupon shall have become
due, then and thereupon the principal of all the 203
said bonds shall at the election of the trustees
become due and payable, or a majority in interest
of the holders of said bonds may by an instrument
in writing under their hands and seals instruct the
said trustees to declare the principal of said bonds
to be due, or waive the right so to declare, on such
terms and conditions as such majority in interest
shall deem proper, or may annul or reverse the
election of the trustees; provided that no action of
the trustees or of the bondholders shall extend to 204
or be taken to affect any subsequent default or impair
the rights resulting therefrom.

And the said party of the first part, in consideration
of the premises, hereby covenants and agrees
to and with the said R. T. Wilson and W. T.
Walters, and the survivor of them, their successor
and successors in the said trust, and assigns, that

205 the said first party will at any time or times hereafter, upon the reasonable request of the said parties of the second part, their successors or assigns, execute and deliver, or cause to be executed and delivered, all and every such further and other reasonable deeds, conveyances, assignments and assurances in the law for the better and more effectual vesting and confirming the premises, property, rights and interests hereby granted or intended so to be, and especially for con-
206 veying any property subsequently to the date hereof, acquired by the said party of the first part and comprehended in the description contained in this indenture, if any such there be, to the said parties of the second part as Trustees for the uses and purposes of this indenture, and to their successors and assigns, as by them or their counsel learned in the law shall be reasonably devised, advised or required.

And first, that the said first party will do and
207 perform all the things on the part of the said first party to be done and performed as hereinbefore set forth, and faithfully apply all the money and other things arising from the issue and sale of said bonds to the purposes hereinbefore recited or mentioned as the objects thereof, and further, that the said first party will pay unto the holder or holders of the said bonds respectively the said principal sums of money therein respectively mentioned and as expressed therein, and the interest thereon as the
208 same shall become due and payable. And it is hereby provided, declared and agreed that no bond shall be deemed to be issued under this mortgage or entitled to the benefit of the security thereby provided unless there shall be endorsed thereon a certificate signed by the Trustees for the time being to the effect that the same is issued under the said mortgage.

And it is hereby further covenanted, declared and agreed that in case of default in payment thereof, either principal or interest money secured hereby, and the continuance of such default for six months after such default shall have been made or suffered, the said first party shall and will, on demand made after the expiration of such six months by the parties of the second part, their successors or assigns, trustee or trustees for the time being, or their agent or agents duly authorized in writing, assign and transfer in due form to them, or to their agent or agents so authorized, the actual possession of all the herein-granted and conveyed property and premises, and herein recited and mentioned, or intended to be embraced in this trust; and further, that the expense of taking, holding and managing said property and premises, if possession be taken, shall be paid from the income, and, if necessary, from the sale of the property and premises by the said trustee or trustees, as the case may be, for the time being; and further, that in such case the parties of the second part, or the survivor of them, or their successors in said trusts and assigns, shall and may by themselves, or by their officers and agents, take and receive, collect and have, the income and profits of the said railways and other property, first applying the same to the payment and discharge of all current and necessary operating expenses and repairs, including the expenses hereinbefore mentioned, and all taxes and other similar charges, and next to the payment of all sums of money due and payable upon the aforesaid bonds issued by said first party and hereby secured according to the tenor thereof; and further that the said parties of the second part, their successors in said trust or assigns, having entered as hereinbefore mentioned, into the full possession of the premises, property and estate hereby

209

210

211

212

213 conveyed or without having entered into such possession (the said default still continuing), at his or their discretion and with the approbation of such Court or Courts of Record, either State or Federal, as may have jurisdiction over like trusts in the State of Tennessee, may, or on the written request of the holders of at least one half of the bonds hereby secured and then outstanding unpaid shall, proceed to sell and dispose of or cause to be sold and disposed of, all the premises, property, rights, inter-
214 ests, franchises and estate, hereby conveyed or intended to be conveyed, or so much thereof as shall be necessary to pay and discharge the principal and interest according to the tenor thereof, of all such of said bonds hereby secured and then outstanding as may have been issued by said first party together with all benefit and equity of redemption of said party of the first part therein, by public auction, either in the City of Knoxville, Tennessee, or in City of New York, to the highest bidder, having
215 previously given public notice of the time, place and terms of said sale, and of the property to be sold, by publishing the same in at least two newspapers of good general circulation in each of the said cities, and wherever else the Trustees may deem expedient or required by law, for a period of ninety days previous to such sale. And, as the attorney or attorneys of the said first party for that purpose by these presents duly constituted and appointed, make, execute and deliver to the purchaser or pur-
216 chasers thereof a good and sufficient deed or deeds of conveyance in the law for the same, granting and assuring to the said purchaser or purchasers all such estate, right, property, franchise and interest, and to the same extent as the said first party had therein at the date hereof or at any time subsequent, and also a good and sufficient transfer and assignment of said personal property, choses in action,

contracts and leases. And out of the moneys 217
arising from such sale or sales it shall be lawful for
and the duty of said Trustees, after first retaining
the costs and charges of advertisement and of the
said sale of the premises and all other sums of
money which said Trustees or their successors in
said trust may have been obliged to pay by reason
of their taking possession of and operating said
premises, and a reasonable allowance for their own
services and for legal professional advice, aid and
assistance in effecting and consummating said pos- 218
session, operation and sale. And also to pay, in so far
as such proceeds shall suffice therefor, the principal
and interest whether then due or yet to become due,
which shall then remain unpaid on said bonds re-
maining issued and outstanding and hereby secured
as aforesaid, for the benefit of and to be paid to the
holders thereof and then restore the residue of the
said proceeds, if any there be, to the said party of
the first part; it being hereby expressly understood
that the bonds issued by the said first party and se- 219
cured by these presents shall be rateably receivable,
if desired by the holders thereof, in payment of
said sale by said trustees, or their successors, to the
amount of the net proceeds of such sale properly
applicable to the payment of such bonds respect-
ively; and the said sale when fully consumated,
shall be a perpetual bar, both in law and equity,
against the said party of the first part, and all per-
sons claiming or to claim the premises, or any part
thereof, by, through or under said party of the first 220
part subsequent to the date of these presents; and
in no case shall any claim or advantage be taken
of any valuation, appraisement or extension laws by
the party of the first part nor any injunction or stay
of lawful proceedings hereon, nor shall any process
be applied for or obtained by the party of the first
part to prevent or obstruct such lawful entry or

221 sale as aforesaid, but the same are hereby expressly waived by the said party of the first part.

And this indenture further witnesseth that these presents and the said bonds hereby secured or intended so to be, are made, extended and issued or delivered upon the terms, conditions and agreements following, that is to say:

First, that the actual possession, use, management and control of all the hereinbefore granted estate, property and premises shall be and remain
222 in and with the said party of the first part so long as the bonds so issued shall be and remain without forfeiture or default in respect of interest or otherwise.

Second, that in case of any vacancy in the said trusteeship hereunder, by the incapacity to act, death or resignation of either of the said trustees, or from any other cause, all his estate, right, interest, power and control shall be thereupon divested and cease and determine, but without destroying or
223 without any discontinuance of the trust, and the said party of the first part shall, or upon default or omission to take proceedings therefor for thirty days after notice of such vacancy or incapacity, the holders of not less than ten per centum in amount of the said bonds hereby secured, may apply to any of the Courts having jurisdiction in the premises in the State of Tennessee to appoint a new trustee to supply the vacancy, and such proceedings may be had and appointments made as often as the like
224 occasion may require the appointment of a trustee to execute the trust herein declared, and when so appointed such new trustee shall thereupon become vested, for the purposes of said trust, with all the rights, estate, interests, power, property and control hereby conveyed or granted to or vested in the said R. T. Wilson and W. T. Walters by these pre-

sents, without any further assurance, grant or conveyance of the same, as fully and effectually as if such appointment had been originally made therein. But, if the same shall be necessary, both the said party of the first part and such new trustee, or either of them, shall make, execute and deliver all necessary conveyances and agreements and grants and powers and authorities for that purpose. 225

And it is further understood and agreed by and between the parties to these presents, that the said parties of the second part, their successor or successors in said trust, shall only be accountable for reasonable diligence in the management thereof, and shall not be responsible for the acts or negligence of any agent or agents necessarily employed by them, when such agent or agents are selected with proper discretion, or with the approbation of the said party of the first part, and the officers of the said railroad company shall have at all times the right to inspect the books kept by the Receivers of the road and their agents. 226 227

And this Indenture further witnesseth, that the said parties of the second part hereby accept the aforesaid trusts, and also covenant and agree to and with the said party of the first part to execute the same upon the terms and conditions hereinbefore as well as hereinafter mentioned and provided, and which said terms and conditions are hereby mutually agreed to and upon by both of the parties to these presents, and that the said Trustees and their successors may employ and advise with legal counsel, and that the expense thereof, as well as other personal expenses of the said Trustees for the time being in the discharge of said trusts, and all other their reasonable and proper charges and expenses thereof, including their compensation, shall be paid by the parties of the first part as they are incurred, or otherwise, out of the trust estate or income on which or to which they are chargeable; and like- 228

229 wise that the said Trustees or their successors shall not be required to act in the execution of said trusts, except at their own option, unless the party requesting them so to do shall furnish them reasonable indemnity against the loss, costs, trouble and expense they may incur or be at in so doing; and that when called upon to act they shall be and are hereby authorized and invested with full power at their option, under advice of legal counsel, to submit all questions of law or fact arising in the execution thereof to arbitrators; that they in the execution of said trusts may employ agents and attorneys in fact to act in their behalf whenever requested to act as aforesaid, except when they may be or are required by law to act personally.

230 *(at line "cution thereof to arbitrators")*

And also that all covenants and agreements hereinbefore contained or implied may be executed specifically by and through any of the said Courts of competent jurisdiction as practised by them in like cases of trusts.

231 In testimony whereof the said party of the first part, in pursuance of authority given by law, and in comformity with the order of the Board of Directors has caused this indenture to be signed by C. M. McGhee, its President, and John L. Moses, Treasurer, and the Corporate seal of the Company to be affixed hereto, and the parties of the second part have hereunto subscribed their names and affixed their seals the day and year in this indenture first mentioned.

232 C. M. McGHEE, *President.*
JOHN L. MOSES, *Treasurer.*
R. T. WILSON, } *Trustees.*
W. T. WALTERS }

Signed, sealed and delivered in presence of

WILLIAM H. CLARKSON, } as to R. T. WILSON and W. T. WALTERS, *Trustees.*

H. W. LYNN, } as to C. M. McGHEE
WM. BLAIR, } and JOHN L. MOSES.

STATE OF NEW YORK, }
City and County of New York. } ss.:

Personally appeared before me, a Commissioner of the State of Tennessee in and for the State of New York, residing in the City of New York, the foregoing named trustees, Richard T. Wilson and W. T. Walters, with whom I am personally acquainted, who acknowledged that they executed the foregoing Instrument for the purposes therein contained.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 1st day of March, A. D. 1876.

[L. S.] WILLIAM H. CLARKSON,
Commissioner for Tennessee in New York,
117 Broadway, New York City.

STATE OF TENNESSEE, }
Knox County. }

Personally appeared before me, J. F. J. Lewis, Clerk of the County Court of said County, H. W. Lynn and Wm. Blair, subscribing witnesses to the foregoing instrument, who, having first been sworn, deposed and said they were acquainted with C. M. McGhee, President of the Knoxville & Ohio Railroad Company, who signed the foregoing deed, and that he acknowledged in their presence that the instrument was executed for the purposes therein named; also, at the same time, personally appeared before me, John L. Moses, Treasurer of the Knoxville & Ohio Railroad Company, known to me as the individual named in the foregoing deed, who acknowledged that he signed the same for the purposes therein named, that he affixed the seal of the Knoxville & Ohio Railroad Company, and that his signature as Treasurer, the signature of C. M. McGhee as President, and the seal of the Company were affixed under the authority and direction of an order passed by the Board of Directors of said Company, and that said order was passed in pursuance of a resolution adopted by the stockholders of the Company.

Witness, my hand and official seal, at office in Knoxville, this June 7, 1876.

J. F. J. LEWIS,
[L. S] *Clerk.*

STATE OF TENNESSEE, }
Knox County. }

REGISTER'S OFFICE,
June 7th, 1876, 12 *o'clock M.*

Then was this Deed of Trust registered in my office, in Trust Deed Book "C," vol 1st, pages 358, 359, 360, 361, 362, 363, 364, 365, 366 and 367, and noted in Note Book "A," page 22.

CHARLES MORROW,
Register,
For Knox County, Tennessee.

Fee, $7.25, paid.

STATE OF TENNESSEE, }
Anderson County. }

I, J. A. Brown, Register for said County, do certify that the Deed of Trust and the Certificate attached, was received for Record on the ninth day of June, A. D. 1876, at nine o'clock A. M., and Registered in Book Z, on pages 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, and noted in Note Book No. 2, on page 137.

J. A. BROWN,
Register,
For Anderson County, Tennessee,
By JOHN ALLEN,
Dept. Register,
For said County.

Fee, $7.50, paid.

STATE OF TENNESSEE, }
Campbell County. }

REGISTER'S OFFICE,
Jacksonboro, Tenn., June 14th, 1876.

The foregoing instrument with Certificates attached came to hand June 14th, 1876, at 9 o'clock A. M., was noted in Note Book, vol. "1," page 101, and recorded in Book of Trust Deeds, vol. "A," pages 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281 and 282, June 15th, 1876, at 3 o'clock P. M.

D. C. McAMIS,
Register,
For Campbell County, Tennessee.

Reg. fees, $7.75, paid.

RESPONDENT'S EXHIBIT No. 3. 233

W. H. D. L., *Spl. Exr.*

Statement showing the Railroads which retired their debts to the State of Tennessee, and amount of same, date, &c.:

Names of Railroad.	Original Debt.	Date of payment	How Paid.		
			Bonds.	Coupons.	Cash.
East Tenn., Va & Ga.,....	3,816,000 00	Aug. 1, 1870	3,835,000 00	282,750 00	11 10
Memphis & Charleston,.....	1,700,000 00	July 25, '77	1,648,000 00	88,920 00	
Nashville & Chattanooga....	395,000 00	Jan. 1, '74	364,165 00		
Nashville & Decatur,.......	2,119,000 00	M'ch, 1871	2,393,750 00	407,005 00	32 10
Memphis & Ohio,..........	1,999,000 00	May 25, '71	2,146,000 00	322,380 00	
Mobile & Ohio,............	1,296,000 00	Jan. 1, '72	1,539,000 00	246,245 00	1 00
Mississippi & Tennessee....	398,000 00	Jan. 16, '78	299,000 00	810 00	
Mississippi Central, ...	1,124,000 00	Nov. 28. '77	1,199,000 00		

234

Statement showing amount of Sinking Fund paid by Railroads since January, 1870:

Name of Railroad.	Bonds.	Coupons.	Currency.	Total.	
Memphis & Charleston,.....	158,000 00	34,465	6 20	198,585 00	
Nashville & Chattanooga, ...	20,500 00	10,835		31,335 00	
Mississippi & Tennessee,....	115,000 00	2,536		117,536 00	

235

What Railroads were sold, the amount for which each was sold payable in bonds of the State, with *January*, 1871, *and subsequent coupons* attached (or equivalent) and the amount of bonds, &c., actually paid:

236

Name of Railroad,	Amount of Sale.	How Paid.			
		Bonds.	Coupons.	Cash.	
Edgefield and Kentucky,....	900,000 00	974,000 00		10,443 96	
Cin., Cumb. Gap & Charleston	300,000 00	300,000 00			
Knoxville & Kentucky,.....	350,000 00	343,000 00	7,500 00	20 67	
McMinnville & Manchester,.	300,000 00	300,000 00			
Winchester & Alabama,.....	300,000 00	300,000 00			
Rogersville & Jefferson,.....	23,000 00	23,000 00			
Nashville & North-Western,.	2,400,000 00	2,400,000 00			
Knoxville & Charleston,.....	105,000 00	117,000 00	7,950 00	6,791 25	
E. Tenn. & West. N. Carolina,	20,000 00	21,000 00	50 00	180 00	
Mem., Clarksville & Lou'ville,	1,700,000 00	1,630,000 00	70,000 00		
Tenn. & Pacific,...........	300,000 00	328,000 00		*10,470 00	

* In litigation.

237 **Statement showing the date of first and last payments on account of the roads which were sold out:**

Name of Railroad.	Date of first payment.	Date of last payment.
Edgefield & Kentucky, ...	Aug. 26, 1871.	Dec. 23, 1874.
Cin.,Cumb. Gap & Charleston	Oct. 16, 1871.	Sept. 24, 1874.
Tenn. & Pacific, ...	Aug. 8, 1874.	Nov. 29, 1876.
Nashville & North-Western,.	Oct. 10, 1871.	Jan. 1, 1874.
Winchester & Alabama, ...	Aug. 30, 1871.	Dec. 20, 1873.
McMinnville & Manchester,.	April 6, 1870.	July 27, 1870.
Knoxville & Kentucky, ...	Oct. 16, 1871.	Sept. 24, 1874.
Rogersville & Jefferson, ...	April 10, 1872.	April 10, 1872.
238 Knoxville & Charleston, ...	April 20, 1872.	Dec. 1, 1878.
E. Tenn. & West. N. Carolina	Nov. 18, 1871.	Nov. 13, 1874.
Mem., Clarksville & Louisville	March 2, 1871.	May 7, 1872.

RESUME.

Paid in Bonds, ...	13,423,915 00	
" " "	293,500 00	
" " "	6,736,000 00	
		20,453,415 00
" " Coupons	1,348,120 00	
" " "	47,836 00	
" " "	85,500 00	
239		1,481,456 00
" " Cash	44 20	
" " "	6 20	
" " "	27,905 88	
		27,956 28
		21,962,827 28
Debt paid, ...		14,772,079 20
Sinking Fund, ...		341,342 20
Roads sold, ...		6,849,405 88
Add, ...		21,962,827 28
240 Louisville & Nashville Railroad Co., ...		702,000 00
Paid in 1865–6, ...		22,664,827 28

STATE OF TENNESSEE,
Comptroller's Office.

I, JAS. L. GAINES, Comptroller of the State of Tennessee, do certify that the foregoing statements (on the opposite page) are correct as shown by the books and records of this office.

Witness, etc., this 21st day of October, 1879.

[SEAL.]

JAS. L. GAINES,
Comptr.

COMPAINANT'S EXHIBIT No. 1. 241

W. H. D. L., Sp'l Ex.

MOBILE & OHIO
RAILROAD COMPANY.

FIRST MORTGAGE
Seven per Cent. Sinking Fund 242
GOLD BONDS.

$1,000 or £205.

Principal Due, July 1st, 1901.

Interest Payable January 1st and July 1st. 243

Principal and Interest Payable in the City of
New York, Coin of the United States of
America, or in the City of London, in
Sterling, at the Option of the Holder.

RESOLUTIONS 244
OF
Mobile and Ohio Railroad Company.

AT a called meeting of the Board of Directors of the Mobile and Ohio Railroad Company, held 25th

245 May, 1871, the following preamble and resolutions were unanimously adopted :

Whereas, At sundry times, heretofore, to enable this Corporation to iron, equip and complete its line of railway through the State of Tennessee, said State of Tennessee, under and by virtue of its general Internal Improvement Laws, and of other acts amendatory and supplementary thereto, theretofore passed, and then in full force, loaned to this Company, or has advanced for its benefit, bonds of
246 the said State of Tennessee, to the aggregate sum of one million six hundred and eighty-four thousand eight hundred dollars ($1,684,800).

Whereof payment, both of principal and accruing interest, was to be made by this Company, as the same matured, and for the security of which payments of principal and interest, a lien was reserved to said State upon the entire road in the State of Tennessee, including the right of way, grading, bridges, masonry, iron rails, spikes, chairs,
247 and the whole superstructure and equipments, and all the property owned by the Company, as incident to, or necessary for its business; and all depots and depot stations, and all the property and assets attached thereto, or belonging to said Company, lying within the limits of said State, with power to seize, and in default of payment of the principal, to sell in the nature of a mortgage lien, as appears by reference to the said statutes of the State of Tennessee.

248

And whereas, By Act of the said State of Tennessee, Chapter XXXVIII, passed at the second session of the thirty-fifth General Assembly of the State, entitled, "An Act to liquidate the State Debt contracted in aid of railroad companies in the State of Tennessee," passed Febuary 25th, 1869, it is among other things enacted, that any person or corporation may, with the consent of the Board of Directors of any railroad company, so having received aid under said General Internal Improvement Law, passed 11th February, 1852, and the amendments thereto, pay off the indebtedness of such railroad company to the said State, in the mode and manner therein provided, and with the consent of such railroad company upon such payment be subrogated to all the lien or liens, which the State of Tennessee had, or has, upon said railroad, or its property, and have the same right to enforce the same, which the State of Tennessee had.

And whereas, This Corporation is desirous to avail itself of the provisions of said law, and return to said State of Tennessee the like amount of bonds of said State, as have heretofore been loaned to it, or advanced for its benefits by an issue of its own bonds, to be exchanged for said State bonds, with the holders thereof, and at the same time to secure to the holders of said substituted bonds in good faith all the protection and security which the said State of Tennessee held for its protection and indemnity against loss and damage, by reason of its said loan to the said Mobile and Ohio Railroad Company, by virtue of the laws of the said State, were no change made in the form of security originally held by said State, according to the true intent and meaning of the Act passed 25th February, 1869.

Therefore be it resolved by the Board of Directors of the Mobile and Ohio Railroad Company as follows:

1st.—The President of this Company is hereby authorized and empowered to cause to be prepared and issued, under the seal of this Company, bonds of this Company to the amount of one million six

253 hundred and eighty-five thousand dollars ($1,685,000), the same to be signed by the President, or in his absence, by one of the Vice-Presidents, and countersigned by the Secretary and Treasurer, said bonds to be made payable in Gold coin of the United States, in the City of New York, or in the City of London, at the option of the holder; to be each for the sum of one thousand dollars, or two hundred and five Pounds Sterling, and payable on the 1st day of July, A. D. 1901. Said bonds to bear
254 interest at seven per centum per annum, payable semi-annually, on 1st January and July in each year, at New York or London, at the option of the holder, and for which interest, coupons or interest warrants are to be attached to said bonds.

2d.—That Wm. Butler Duncan, Adrian Iselin and Richard T. Wilson, their survivors and survivor, are hereby declared the Agents of this Company, to effect the substitution of its said bonds, as
255 above authorized, in place of the said bonds of the State of Tennessee, for the purpose and objects declared in the preamble to these resolutions; and upon and from and after such substitution, as rapidly as the same is effected, the said Wm. Butler Duncan, Adrian Iselin, and Richard T. Wilson, their survivors and survivor, and their successors, are hereby declared to be Trustees for the mutual benefit of this Company, and of the holders of said bonds, and are hereby authorized to defend and
256 protect the rights conferred on the holders of said bonds, by the said acts and laws of the said State of Tennessee, and hereby acknowledged and recognized. In case of the death or resignation of any of said Trustees, the vacancy shall be filled by the joint appointment of the remaining Trustees, or Trustee, and the President of the Mobile and Ohio Railroad Company, with the approval of its Board

of Directors; and if all become incapable of acting, 257
new Trustees are to be appointed by this Company.

3d.—This Company does hereby declare that it does and will at all times acknowledge and recognize the bonds herein authorized to be issued, when so substituted in the room and place of the said bonds of the State of Tennessee, in manner herein and by said act provided, as entitled to and in fact being a lien, in the nature of a first mortgage, upon
all the property of this Company, in the said State, 258
the same precisely as is now declared to exist in favor of the said State of Tennessee, under and by virtue of the statutes thereof, in pursuance of which the said loan and advance of State bonds was made to the Company.

And this Company does hereby covenant to and with the said Trustees, their survivors and survivor, and successors, that it will in good faith do and perform all things, acts and deeds necessary and
proper, and which it may be reasonably requested 259
to do, for the protection of the rights of the holders of said substituted bonds, and of said Trustees for their benefit, according to the true intent and meaning of the said acts and laws of the State of Tennessee, hereinbefore referred to, and of these resolutions; and further, that this Company shall and will, annually hereafter, from and after the 1st day of April, 1873, within three months thereafter, and during each year, while said bonds, herein au-
thorized, are running to maturity, provide and set 260
apart from the earnings of the Company a fund of at least one per centum of the amount of said bonds, and will annually faithfully apply said sum of money, so set apart, as a sinking fund to the purchase and gradual retirement of said bonds; and on, or by the 1st day of April, 1874, and every year thereafter, till said bonds are fully retired, will

261 furnish to said Trustees, evidence of the performance of this stipulation, as may be agreed on.

Resolved, That the President of this Company be, and he is hereby directed, under its corporate seal, to execute and deliver to said Wm. Butler Duncan, Adrian Iselin and Richard T. Wilson, as Trustees aforesaid, its deed for the uses and purposes herein declared, and for the effectual protection and security of the holders of the bonds, hereby authorized to be issued, according to the true intent and 662 meaning of these resolutions.

I certify the foregoing to be a true copy from the minutes of the Board of Directors of the Mobile and Ohio Railroad Company.

Seal of Company.

(Signed,) A. L. WILLOUGHBY,
Sec'y M. & O. R. R. Co.

263 DEED OF TRUST
OF
MOBILE AND OHIO RAILROAD CO.

This indenture, made this first day of July, A. D. 1871, between the Mobile and Ohio Railroad Company, of the first part, Wm. Butler Duncan, Adrian Iselin and Richard T. Wilson, of the City and State of New York, their survivors and survivor, and successors, of the second part, and the holders of the 264 bonds issued by said party of the first part, and herein described, of the third part.

Witnesseth, that whereas, under the General Internal Improvement Laws of the State of Tennessee, passed 11th February, 1852, and the acts amendatory thereto, the party of the first part has become liable to the State of Tennessee in the sum of one million six hundred and eighty-four thousand eight hundred dollars, being the amount of bonds of said State loaned to said party of the first part, and moreover is under obligation to pay to the State of Tennessee semi-annually an amount equal to the amount of the same annual interest upon the said bonds so loaned, as well as an amount of money equal to the principal of said bonds, so loaned to the party of the first part, when and as the same become due and payable; and whereas, by Act of the said State of Tennessee, entitled, "An Act to liquidate the State debt contracted in aid of Railroad Companies in the State of Tennessee," passed February 25th, 1869, the Railroad Companies, so receiving aid from the State, of which the party of the first part was one, are authorized to issue their own bonds to an amount equal to the bonds so received from said State, and are authorized so to use said bonds as to retire and return to said State, bonds of said State of Tennessee to an amount equal to that loaned to said company, or advanced for its benefit, for the security of which new issue of bonds, the holders thereof, it is by said act declared, shall, with the consent of such railroad company, be entitled to all the lien, rights and privileges reserved to the said State for its own security and protection. 265 266 267

And whereas, The party of the first part has accepted the terms and provisions of said Act, and has for the purpose aforesaid caused to be issued its bonds, dated 1st July, 1871, to the extent of one million six hundred and eighty-five thousand dollars, and numbered from one to sixteen hundred and eighty-five (1685), inclusive, each for one thousand dollars, payable in gold coin of the United States, at New York, or two hundred and five pounds sterling, payable in London, at the option of the holder, with interest at seven per centum per 268

269 annum, payable semi-annually, in gold coin at New York, or in sterling at London, as aforesaid, at the option of the holder, for which interest coupons or warrants, payable as aforesaid, are attached to said bonds; and has delivered said bonds with the said coupons attached, to Wm. Butler Duncan, and Adrian Iselin and Richard T. Wilson, as agents of the party of the first part, to be substituted in place of the claim and demand and liability now held against the party of the first part by the said State of Ten-
270 nessee, for which purpose of substitution the said Wm. Butler Duncan, Adrian Iselin, and Richard T. Wilson, are hereby made and appointed the agents of the said party of the first part, and which substitution under said agency, said parties of the second part are proceeding to make and perfect.

And whereas, under the laws of the said State of Tennessee, the said State has a lien upon the following named property of this company, to-wit: The entire road in the State of Tennessee, including
271 the right of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the company as incident to or necessary for its business, and all depot stations, and all the property and assets attached thereto, or belonging to said company, within the State of Tennessee, which under the said Act of 1869 upon the return of said State bonds to the said State of Tennessee by any person or corporation, with the consent of such in-
272 debted railroad corporation, shall enure to the benefit and for the security of the person or corporation so paying off the said indebtedness or liability of such corporation to the State, or returning to it its said bonds.

Now then, know all men by these presents, that in consideration of the premises, and of the sum of five dollars to said party of the first part, paid by

the said parties of the second part, and to make •273
good and secure the rights of the holders of the said bonds herein described and now issued by the party of the first part, and who are in fact the payers of the said indebtedness of the said party of the first part to the State of Tennessee, within the meaning of said Act of February 25th, 1869, and to the extent thereby authorized, the said party of the first part doth hereby consent that the said parties of the second part shall pay and satisfy to the said
State of Tennessee the debt and liability due by the 274
said party of the first part to the said State, and doth hereby approve such payment, and doth also hereby consent that upon the payment aforesaid being made, or to the extent that it shall be made, and as it is, or may be from time to time made, said parties of the second part shall, in pursuance of the terms and provisions of the Act last above herein referred to, be vested with, and shall have and hold all the lien or liens which the State of Tennessee had
or has upon the property of the said party of the 275
first part hereinbefore described, in the State of Tennessee, and shall have the same right to enforce the same which the State of Tennessee had, and that said parties of the second part shall be, and are hereby placed in the same position and with the same rights which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same. To have and to hold the rights, powers and privileges hereby consented to,
and which arise under the said Act of the State of 276
Tennessee with the consent and approval of the said Mobile and Ohio Railroad Company to them, the said parties of the second part, their survivors and survivor, and their successors, upon trust, however, for the use, benefit, advantage and security of the holders of the bonds, herein described, issued by the said Mobile and Ohio Railroad Company,

277 parties of the third part, to these presents and their assigns, and it is hereby declared, that in case of the death or resignation of the said parties of the second part, the said party of the first part shall appoint new Trustees in their place and stead; and in case any one or two of said Trustees die or resign, such vacancy shall be filled by the joint appointments of the remaining Trustee, or Trustees, and the President of the Mobile and Ohio Railroad Company, with the approval of the Board of Direc-
278 tors thereof. And the said party of the first part doth agree and covenant to and with the said parties of the second part, their survivors and survivor, and their successors, that it, the said party of the first part, will in good faith and at all times hereafter do and perform all things necessary and proper for the protection and security of the said parties of the third part, and of the said parties of the second part, and their assigns, as the same may be reasonably required of it, to make good and ef-
279 fectual this lien and security of said parties, about the payment of their said debts and demands, and to secure the enforcement of their remedies for the payment of said bonds and the interest accruing thereon, in case default be made in the payment of said bonds and coupons, or any part or portion thereof, or default be made in the performance of the covenant herein contained, providing for the creation and application of a sinking fund for the gradual retirement of the bonds herein described,
280 according to true intent and meaning of these presents, and of the said acts hereinbefore referred to, of the General Assembly of the State of Tennessee. And the said party of the first part doth further covenant to and with the said parties of the second part, and of the third part hereto, and their assigns, that on the first day of April, 1873, and on the first day of April of each year thereafter, said party of the first part will from the net earnings of

said Road set aside an amount equal to one per 281
centum of the amount of bonds issued and outstanding under the provisions thereof, as a Sinking Fund for the redemption of the bonds secured by these presents, and that it will invest said Sinking Fund, and the interest accruing thereon, in the purchase of the bonds herein secured, at a rate not exceeding Ten per centum above par, and accrued interest; the bonds so purchased shall be immediately registered, stamped and endorsed, as irrevocably belonging to said Sinking Fund, and not 282
farther transferable, and said bonds and coupons so purchased and assigned to the Sinking Fund by such registration, stamping and endorsement, shall be ever void and cancelled for all other purposes. In case bonds hereby secured cannot be purchased at or under the rate above named, within three months after the setting apart of such money for account of said Sinking Fund, then such other good securities as may be agreed on by the parties of the first and second part shall be purchased and 283
assigned to said Sinking Fund, and all such securities shall be placed with such Depository and in such manner as said parties of the first and second part may from time to time agree upon; and the interest accruing upon said Sinking Fund shall be collected by the party of the first part, and invested as herein provided; and all securities assigned to or purchased for said Sinking Fund shall be, and hereby are, irrevocably pledged for the security and ultimate redemption of the principal and inte- 284
rest of the bonds hereinbefore described and issued by the said party of the first part for the uses and purposes herein declared. And the said parties of the second part are hereby released from executing the bond required of Trustees under Section 1974 of the Code of Tennessee. And the said parties of the second part do hereby accept the Agency and Trusts herein and hereby imposed upon

285 them, and do promise and agree faithfully and to the best of their ability to perform the duties hereby provided to be done and performed by them.

It is understood that the acts of any two of the said Trustees hereunder shall be valid and effectual in the performance of the duties hereby declared, the same as if all had joined therein; that said Trustees may in all cases act by an agent duly appointed over their hand and seal, except in such matters as are by law required to be performed in
286 their proper person; that they shall be fully indemnified and repaid by the party of the first part, including a reasonable compensation, or out of the Trust Funds which may come into their hands, for their reasonable cash fees and expenses by them incurred about the performance of the acts and things herein and hereby required of them; and shall not be required to act in the execution of the trust herein declared, except at their own option, unless the party or parties requesting them so to
287 proceed shall furnish them reasonable indemnity against the loss, costs, trouble and expense they may incur or be at in so doing.

In testimony whereof, the said party of the first part has hereto set its Corporate Seal and the hand of its President, by authority of a resolution of its Board of Directors duly given. And the said parties of the second part have hereunto set their
288 hands and seals.

{ SEAL OF COMPANY. }

(Signed) ABRAHAM MURDOCK,
Pres't Mobile & Ohio Railroad Co.
W. BUTLER DUNCAN, [L. S.]
ADRIAN ISELIN, [L. S.]
R. T. WILSON, [L. S.]

Attest:
A. L. WILLOUGHBY,
Sec'y & Treas'r M. & O. R. R. Co.

STATE OF NEW YORK, } ss.: 289
City and County of New York, }

On this seventh day of August, in the year of our Lord one thousand eight hundred and seventy-one, in the city of New York and State of New York, personally appeared before me, the undersigned, Geo. W. Colles, a Commissioner of Deeds for the State of Tennessee, resident in New York City, the within-named Abraham Murdock, President of the Mobile and Ohio Railroad Company, one of the within-named bargainers, with whom I am person- 290
ally acquainted, and who, being first duly sworn, deposes and says that he is President of the Mobile and Ohio Railroad Company, and is acquainted with its corporate seal; that the seal purporting to be such, above affixed, is such corporate seal, and was duly affixed to the within instrument by him, the said President; and also he, the said President, set his hand thereto, both by authority of a resolution of the Board of Directors of said Company, duly given. And also then and there personally appeared 291
William Butler Duncan, Adrian Iselin and Richard T. Wilson, others of the within-named bargainers, before me, with each of whom I am personally acquainted, and who each acknowledged that he had executed the within instrument for the purposes therein contained.

Witness my hand and seal, the day and year first above written.

{ COMMISSIONER'S SEAL. }

292

(Signed) GEORGE W. COLLES,
Commissioner for Tennessee in New York.

Deposition of R. T. Wilson.

United States Court, 1

SIXTH JUDICIAL DISTRICT,

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS, *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis & Charleston Railroad Company 2

vs.

THE MEMPHIS & CHARLESTON R. R CO., and the EAST TENNESSEE, VIRGINIA & GEORGIA R. R. CO. 3

Before WILLIAM H. DELANCEY,
Notary Public,
52 Broadway, New York.

Sept. 9, 1879.

Present—MR. ANDREWS, for Complainants; MR. HUMES, for Defendants; MR. TWEED, for Defendants. 4

RICHARD T. WILSON, a witness produced on the part of the Complainants, being by me first duly

5 cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says:

[Deposition taken subject to all legal objections of both parties.]

Direct examination by Mr. Andrews:

1 Q. Please state your name, age and occupation?

A. Richard T. Wilson; banker and commission merchant; railroad President, and of full age.

6 2 Q. Please state what official positions you occupy in reference to the railroads of Tennessee?

A. I am President of the Memphis & Charleston R. R. Co., of the East Tennessee, Virginia & Georgia R. R. Co., and a Director in the Knoxville & Ohio R. R.

3 Q. Are you a stockholder in these companies, or any of them?

A. I am a stockholder in all of them at present.

4 Q. State when your connection with Tennessee

7 railroads began? what time?

A. In 1850, I think, or thereabouts. I first bought some stock in the East Tennessee & Georgia Railroad. I think it was about that time.

5 Q. At the conclusion of the war were you a stockholder in any of the railroads?

A. In the East Tennessee & Georgia and not in any other Railroad at the conclusion of the war that I think of now.

6 Q. At the conclusion of the war did you not in-

8 crease your interest in the stock or securities of the Tennessee Railroads?

A. Yes, sir.

7 Q. To what extent?

A. Well, I began to purchase stock in the East Tennessee & Georgia Road, some time, not immediately at the conclusion of the war. In 1866, '7 '8, '9, I purchased a pretty large amount of stock.

8 Q. How much? 9

A. That I cannot tell; but in round figures two hundred and fifty to three hundred thousand dollars was the maximum investment of the stock at par value.

9 Q. What amount of investment did that represent?

A. Well, I don't know without referring to books.

10 Q. Will you please produce your books at the adjourned examination? 10

A. I cannot undertake to do that.

11 Q. Why not?

A. I don't know that you could find the account from the books; it is in memoranda, one thing and another, and I have got no books that really show it.

12 Q. Please produce the memoranda at the adjourned examination?

A. I don't think I can do that.

13 Q. Why not? 11

A. I don't think these questions are pertinent to the case. I am only answering for your accommodation.

14 Q. Do you decline to produce memoranda or books?

A. I decline to produce them unless advised by the Court.

15 Q. Are you a holder of bonds of any of these roads?

A. I am. 12

16 Q. To what extent?

A. I hold of Knoxville & Ohio bonds about forty thousand dollars. I hold a few of the East Tennessee & Georgia bonds divisional, and East Tennessee and Virginia divisional bonds—I think it aggregates about the sum of twenty thousand dollars or under.

17 Q. The Memphis & Charleston?

13 A. I hold largely; I suppose myself and firm
have six or seven hundred thousand dollars.

18 Q. Those are the new so-called substitution bonds?

A. No, not all.

19 Q. How many of them?

A. I think about four hundred and fifty thousand dollars.

20 Q. The stock that you bought in these Ten-
nessee roads did not cost more than fifteen cents;
14 did it?

A. Yes, sir.

21 Q. How much more.

A. It cost an average of thirty or thirty-five cents, may be forty.

22 Q. Some was bought as low as fifteen?

A. No, none of it lower than nineteen that I now remember.

23 Q. The great part of it?

A. No, not the great part of it; very little of it was
15 bought lower than nineteen cents; none of it in
fact that I now remember of; I paid for some of
my stock from sixty-five to seventy-five cents and
even more.

24 Q. I refer to stock bought soon after the war?

A. I think it cost on an average from thirty-five to forty cents.

25 Q. The Memphis & Charleston bonds, what did they stand at?

16 A. We paid seventy-five cents on the dollar for
those.

26 Q. When did you first hold an official position in any Tennessee railroad?

A. As President, I was elected in the summer or autumn of 1870.

27 Q. As director?

A. As director, in 1868 or 1869.

28 Q. What were the prices of Tennessee bonds 17
when you became director?

A. That I can't state certainly, but the reports of the New York Stock Exchange show.

29 Q. Well, very much below par?

A. O, yes; they were below par.

30 Q. Who drafted the Tennessee Act of July 25th, 1869?

A. I don't know who did draft that; the first that I ever heard of the act was about this ——

31 Q. What do you know about the formation of 18
it?

A. In the autumn of 1868, I was asked by Mr. Branner, Mr. Calloway, and perhaps some others, to help devise some plan by which the railroads could raise a fund with which to retire at least a portion of their indebtedness to the State of Tennessee in an amount equal to the Sinking fund payments. The law in regard to payments into the sinking fund had been suspended from
time to time and was then to take effect in 1870 at 19
four per cent. per annum. It was manifest to the companies, as their officers then told me, that they could not meet their sinking fund payments together with their other liabilities under their then worn out and dilapidated condition. I was asked if I could sell a bond on the railroad with which to provide a fund in such an amount as would probably meet the sinking fund payments. At that time I told them I did not think it was possible to sell a
bond that they were then able to make. That their 20
own company bonds then outstanding and coming subsequent to the State lien were probably worth about forty-five to fifty cents on the dollar, and that any bond that they could make would be upon a parity with that bond, that is, it would come behind the lien of the State, and that it would not bring the then price of Tennessee bonds, which was I think in the sixties.

21 Judge Nelson who was then, I believe, the counsel
for the East Tennessee and Virginia Railroad, of
which John Branner was President, was called
in to devise some plan by which the roads could
retire so much of their indebtedness as their friends
would take, and thereby raise a fund to meet their
sinking fund payments, and in that conference it was
suggested whether a plan could be devised by which
the lien of the State could be proportionally trans-
ferred to a new bond and kept in operation. Then
22 there was some discussion how it should be done
—I drew up some memoranda, he and myself to-
gether—he took it, and that's the last I heard of the
formation of the Act of 1869. The object of that
memorandum was, as I say, to provide the right of
substitution. There was no thought of conferring
any new privilege upon the railroad companies in
respect to the things with which they could pay the
State. All agreed that we could pay our debts in
any bonds of the State. We had the example of
23 the Louisville & Nashville Railroad, which had paid
off their debt in this way. The Legislature was
glad to get them. The authorities of the State
were urging them to pay off in any bonds they
could (the roads I mean). The object of that Act
was to facilitate broken down roads, that had no
credit like we were, to raise a fund with which they
could probably pay off at least as much of the in-
debtedness as would equal the sinking fund pay-
ments which were shortly to begin. At the time
24 the Act was passed we thought that any road of so
little credit as the East Tennessee Road, and in fact
almost every other road except perhaps the Louis-
ville & Nashville and the Nashville & Chattanooga
Road had not sufficient means to meet the
sinking fund payments, which had been post-
poned from time to time at the request of
the roads, though all agreed it was asking more

than should be asked of the State of Tennessee to 25
further suspend the sinking fund payments. The
object and purposes of this act were to facilitate the
roads, of poor credit to transfer the lien which the
State held to their own bonds, and thus enable them
to retire the bonds of the State and pay their own
debt to the State; that was the great object of the
Act that I heard of in the autumn of 1868. I
came home after a general understanding that
Judge Nelson should go on and elaborate it. I
paid very little attention to that Act until next 26
year; some time after it was passed Mr. Murdoch
of the Mobile and Ohio Road afterwards informed
me that he drew the original act. The Act
as passed was not such as the memorandum I drew,
and was not in all respects what I thought was to
be passed.

32 Q. Wherein did it differ from the draft?

A. The main difference as I now remember, and
there were quite a number of differences, was a foolish
provision which limited railroad companies who 27
had issued second mortgage bonds, to paying in the
same series of bonds, that had been loaned them,
but that did not affect us, for we had issued no second
mortgage bonds, as we supposed.

33 Q. Was not another of these foolish provisions in these words "provided that the interests of the bondholders should not be affected"?

A. I don't know about that; it was not in it when I saw it.

34 Q. You know Mr. Calloway very well? 28

A. Yes, I know Mr. Calloway very well.

35 Q. He was an officer of the East Tennessee, Virginia and Georgia Railroad?

A. He was President of the East Tennessse, Virginia and Georgia Railroad.

36 Q. Of course that company assisted in procuring its passage by the Legislature?

29 A. I don't know that it did.

37 Q. What do you think about it ?

(Objected to.)

38 Q. Don't you believe that the East Tennessee, Virginia and Georgia Railroad company, or the companies then comprising what is now that company, had agents and representatives in Nashville to advocate the passage of that bill ?

30 (Objected to as immaterial and irrelevant.)

A. That's the answer I make ; it's immaterial and irrelevant.

(Complainant's counsel excepts to the answer.)

39 Q. Why did not the East Tennessee and Virginia R. R. Co. and the East Tennessee and Georgia Railroad Company proceed to take action under 31 the Act of 1869 ?

A. For the very reason that they could not find any financier or capitalist who would supply the needed funds ; they tried it over and over again and failed during the entire year of 1869 and well up into 1870.

40 Q. What do you know of the Act of January 20, 1870 ?

A. Nothing whatever about it that I now remember of.

32 41 Q. You have read, it have you not ?

A. Yes.

42 Q. Did you not read it before the East Tennessee, Virginia and Georgia Railroad Company undertook to deliver to the State some of its bonds ?

A. I think I did ; that is my recollection that I did.

43. Q. Your firm of R. T. Wilson & Co. were

the fiscal agents of the State of Tennessee for a time? 33

A. No, sir; I don't think they were; if they were I have forgotten it.

44 Q. Well, they have had financial transactions with the State of Tennessee?

A. I think they occasionally lent them some money as other bankers, but that they had any other connection with the State I don't remember.

45 Q. How does it happen that the comptroller of Tennessee refers to R. T. Wilson & Co. as the fiscal agents of the State of Tennessee? 34

A. If he has ever done so it has escaped my memory. If you have a report and will let me see it, perhaps it may refresh my memory.

(Respondent's counsel requests that the report referred to be shown. Complainant's counsel declines for the present.)

46 Q. Now, after the East Tennessee Virginia and Georgia Railroad Company commenced to act under the legislation you have been testifying about, through whom were their transactions in the City of New York conducted? 35

A. Partly through R. T. Wilson & Co., and partly through the Fourth National Bank.

47 Q. You referred previously to Mr. Murdock the Mobile and Ohio road, R. T. Wilson & Co., also attended to transactions for that company, did they not? 36

A. They did, in conjunction with other parties.

48 Q. What other parties.

A. I don't remember who all were in that syndicate; they were principally A. Iselin & Co., and Duncan, Sherman & Co.

49 Q. Was not William H. Hayes one of them?

A. He was not.

37 50 Q. Well, you employed agents and brokers in transactions in Tennessee bonds under this legislation, did you not ?

A. In purchasing Tennessee bonds ?

51 Q. Yes, sir.

A. Nearly all the bonds that I ever purchased were purchased through regular brokers here in the city of New York.

52 Q. Please give their names ?

A. They would be very numerous.

38 53 Q. All that you remember.

A. Let me have time to refresh my memory on the subject before I answer that question.

54 Q. During the time you were purchasing Tennessee bonds, or about that time, were you not also a seller of Tennessee bonds ?

A. Yes, sir ; I bought and sold Tennessee bonds.

55 Q. And a borrower ?

A. Yes, sir; borrowing generally as bankers do.

56 Q. You would sell and borrow quite largely
39 at times ?

A. Yes, sir ; my transactions were considerable in them.

57 Q. What were the prices at the time you commenced to purchase under this legislation you have referred to ?

A. Well, I suppose it might be fifty-four or fifty-five cents.

58 Q. When was that ?

A. The 15th day of April, 1870, I suppose is what
40 might be defined as the date of the first transaction I ever had under this legislation.

59 Q. About the same period with this legislation had not your companies or some of them refused to pay any interest in cash or a part of the interest in cash, and had tendered coupons of Tennessee bonds ?

A. I don't know. I have no knowledge on that subject that I now remember of.

60 Q. Well, shortly after you commenced pur- 41
chasing was there not a decline in bonds?

A. No; on the contrary they advanced as I now remember.

61 Q. How long after you commenced buying did they decline?

A. They advanced, I say, as I remember.

62 Q. How long after did they decline?

A. Until they did decline; that I can't answer. The Stock Exchange reports will show.

63 Q. Didn't they decline within a moderate period 42
after?

A. It is my impression they did not, but I cannot speak advisedly; my impression is they went up.

64 Q. Immediately?

A. Not immediately, but gradually.

65 Q. Well, didn't you pay any lower price during all your purchases than the price you paid for the first purchases?

A. Well, I can't say as to that. We would have 43
to go to the records of the Stock Exchange for that.

66 Q. Won't your books show it?

A. I reckon they would show it, but the Stock Exchange is public and my books are private property.

67 Q. Did you buy all these bonds on the Stock Exchange?

A. I think almost every bond, if not quite all.

68 Q. How many do you think you didn't buy 44
on the Stock Exchange?

A. I don't remember to have bought a single bond out of the Stock Exchange, if I did it was very few. I should say not more than one hundred thousand dollars.

69 Q. In reference to these new bonds issued by the companies, at what price did the East Ten-

45 nessee, Virginia and Georgia sell at to the original purchasers?

A. Eighty two and a half cents or a little over, the first million.

70 Q. Who were the purchasers?

A. Messrs. A. Iselin & Company principally

71 Q. They were also purchasers of the Mobile & Ohio new bonds, were they not?

A. Well, no; not in the same sense. The Mobile & Ohio bonds were I suppose purchased by a
46 syndicate

72 Q. Who formed that sydicate?

A. Messrs. A. Iselin & Company, Duncan, Sherman & Company, and R. T. Wilson & Co.—they are all I now remember.

73 Q. Was not the opinion of Charles Tracy attached to the prospectus for the sale of the new Mobile & Ohio bonds?

A. It was. That is an opinion as to the validity of the substitution was attached to it, but this
47 opinion did not touch upon the subject of the lien of the holders of Tennessee bonds.

74 Q. You read the opinion of Davies and Davis?

A. I saw it, but I don't think that I read it.

75 Q. You knew all about it at that time?

A At the time of the sale of the Mobile & Ohio bonds or at the time of the sale of the East Tennessee, Virginia and Georgia bonds?

76 Q. Take the East Tennessee, Virginia and Georgia?.

48 A. My recollection now is that that opinion came to my attention in the autumn of 1870; I should think so from some circumstances that occurred about that time with which I connect that opinion.

77 Q. Did you attach that opinion to any prospectus for the sale of the bonds of the East Tennessee, Virginia and Georgia?

A. I did not. I never issued any prospectus for the sale of the East Tennessee, Virginia and Georgia Railroad bonds that I now recollect of. 49

78 Q. Did you attempt to give it publicity in any way; the Davies & Davis opinion?

A. I only saw one copy, and the only publicity I gave it, was to take it to firm of Evarts, Southmayd & Choate. Mr. Southmayd told me it was of no value whatever, and so did another one of that firm.

79 Q. Then in offering the East Tennessee, and Virginia bonds and Mobile and Ohio bonds, or 50 either of them, you did not make any reference to the Davies & Davis opinion?

A. Well, it is proper to say that the Fourth National Bank were offering the East Tennessee, Virginia and Georgia bonds, and I never offered the East Tennessee, Virginia and Georgia bonds, or the Mobile and Ohio bonds unless I did so as the agent of the bank in the case of the East Tennessee, Virginia and Georgia bonds that I now remember.

80 Q. You were in frequent communication with 51 the Fourth National Bank?

A. Yes, sir.

81 Q. They knew of the opinion?

A. Yes, sir; they saw it I think, but that I am not certain of.

82 Q. Did they offer it to the public in any way?

A. Not that I am aware of.

83 Q. The Memphis & Charleston Road delivered bonds to the State of Tennessee when?

A. It never delivered any. Mr. Iselin, of Iselin 52 & Co., bought the lien on that road from the State with his own funds, and took an assignment of that lien under the provisions of law.

84 Q. That is the same Iselin to whom you showed the Davies & Davis opinion?

A. I did not show it to him.

85 Q. He knew of it?

A. I am not sure that he did.

53 86 Q. Were not you and Mr. Iselin present in the Supreme Court of the United States when this question of the lien of Tennessee bonds was being argued in the month of May, 1878?

A. I was present.

87 Q. At that time these Memphis & Charleston Railroad bonds had not been sold or negotiated?

A. They had then been sold.

88 Q. Had they been assigned?

A. Oh, yes, I think so, long before that.

54 89 Q. Well, there had been a bill pending before the United States Courts, involving that question, for some months before that time, had there not?

A. Well, as to what question that bill involved I must refer you to the records of the case: you are more familiar with it than I am.

90 Q. Have not those Memphis and Charleston bonds been lately placed on the Stock Exchange?

A. Yes, sir.

91 Q. Did you furnish the New York Stock Ex-
55 change with a copy of the Davies & Davis opinion?

A. I did not.

92 Q. Are they now being offered for sale?

A. I don't hear of any being offered.

93 Q. You said that you did not think that you had bought more than a hundred Tennessee bonds outside of the Stock Exchange. Where were those seven hundred and seventy odd old Tennessee and Pacific issues bought?

A. They were bought in the New York Stock
56 Exchange, every bond of them, or else I got them in
return for bonds loaned.

94 Q. At what price?

A. I can't give the price, I don't know. But whether I bought them or received them in return for bonds, I don't know; in either case they were got in the regular way, just as every other bond that was bought, sold or borrowed or repaid. I did

not know they were Tennessee and Pacific bonds 57
when I got them, I never knew what road the bond
was issued to that I got; I had no means of know-
ing this at the time I bought the bonds.

95 Q. When you borrowed bonds as you stated what was the object of borrowing them ?

A. I borrowed bonds frequently, as I wanted them for business puposes.

96 Q. Was it not because you had sold bonds which you did not have to deliver ?

A. That question infringes on my private trans- 58
actions. It might have been for that, or it might
have been because I wanted to raise them for rail-
roads. I borrowed them for a variety of purposes.

97 Q. You said your transactions were very large on account of the railroads ?

A I didn't say on account of the railroads, did I ? I think you are mistaken.

98 Q. Under these substitution laws you said ?

A. No, I do not say that ; I said I was employed
as a banker. 59

99 Q. Didn't I understand you that you acted largely as a banker for the railroad companies, in obtaining bonds to deliver under these substitution acts ?

A. Yes, purely as a business transaction.

100 Q. Now, when you were employed as banker
to buy these bonds on behalf of the Railroad Com-
panies which I referred to in the first instance, when
you borrowed bonds about that time, was it not be-
cause you had sold bonds and therefore had none to 60
deliver ?

A. Not always, by a good deal ; now, for instance in the East Tennessee and Virginia Railroad I borrowed some bonds to pay that debt before I could buy them ; it took time to buy them.

101 Q. Then after you bought them, or had borrowed them, I should say, to pay off this debt with,

61 and you afterwards had to buy them, didn't you try to buy them as cheaply as possible ?

A. It certainly would be reasonable to suppose so.

102 Q. It was then your interest to have Tennessee bonds as low as possible ?

A. It was to my interest, or the interest of my principal, to buy them as cheap as possible.

103 Q. To have them as low as possible ?

A. I answer as I have.

62

(Answer objected to by complainant's Counsel.)

104 Q. You also participated in transactions which took place under the act of the Tennessee Legislature for the sale of certain railroads, did you not ?

A. Not directly.

105 Q. Well, how directly ?

63 A. Not individually I mean.

106 Q. Or through your firm ?

A. Do you mean for supplying bonds to different roads ; is that what you mean ?

107 Q. Well, did you do anything under those acts ?

A. Not that I remember as a firm.

108 Q. Well, in supplying bonds ?

A. Yes, sir ; in that way we did ; we bought bonds for some of the parties who bought some of the

64 roads.

109 Q. Don't your name appear as interested in some of those purchases ?

A. Yes, as trustee for the East Tennessee, Virginia and Georgia Railroad.

110 Q. That was what road ?

A. The Cincinnati, Cumberland Gap and Charleston Railroad.

111 Q. You were concerned in getting bonds for that purpose ? 65

A. Yes, I bought bonds of that company for that purpose as near as I remember.

112 Q. You were cognizant, then, of the proceedings that took place in Tennessee for the sale of the roads, were you not ?

A. In a certain sense I was ; I saw the paper advertisements, and also as trustee allowed my name to be used for the purchase of that road. In another sense, as to keep up with the judicial proceedings closely, I was not cognizant—in a general public way I knew of it. 66

113 Q. Do you know of a report made by the State Commissioners, that stated that the lien of the Tennessee bonds was one of the difficulties to be encountered in effecting the sale of the roads ?

A. No, I do not ; if there ever was such a report made, it has escaped my memory ; I don't think I ever saw it. All that I remember on that point was Chancellor East's decision, a newspaper copy of which I saw, in which he decided that the bondholders had no lien. If the commissioners made an adverse report I do not remember ; I knew nothing about it. 67

114 Q. Did you make any effort to call to the attention of Tennessee State bondholders in this city, that the questions in reference to paramount liens on railroads in Tennessee were then under adjudication ?

A. I don't think I did. 68

115 Q. If you had called that fact to their attention don't you think it would have enhanced the price of Tennessee bonds ?

A. I didn't consider myself the agent of the bondholders, or that it was my duty to make any such publication of so fanciful a theory as I always believed that to be.

69 116 Q. Then I understand that you did nothing whatever to divulge any claim which was advanced in respect of the interest of Tennessee bondholders in the railroads of the State?

A. I did nothing in their behalf, as I have already stated; I did not consider myself their agent.

117 Q. You stated that these new bonds of the East Tennessee, Va. & Ga. R. R. brought into the Company 82½ cents?

A. I said they were sold at 82½ cents.

70 118 Q. How much did the Company receive?

A. They received 80 cents for the first lot of them, and an additional bonus of $4,500 for the first lot of a million; after that they commenced getting higher prices, and did get higher prices; ran up to 90 cents.

119 Q. Who got that difference between 80 and 90?

A. The Company in every instance. They sold
the first lot at 82½, and the bank—the 4th National
71 Bank—and the parties selling them got a commission.

120 Q. Who were those parties?

A. There was a contract that the bank was to sell them, and it employed other parties giving, one and a quarter per cent. commission on the sales.

121 Q. Was that contract in writing?

A. Yes sir, it was in writing.

Please produce a copy at the adjourned examination.

72 122 Q. What did the State bonds cost the Company?

A. Fifty-five cents on the dollar for the whole lot.

123 Q. Did not the railroad companies in which you were interested endeavor to procure the passage of the Act of January 20th, 1870?

A. I was not present at that session of the Legis- 73
lature, and have no personal knowledge on the subject.

124 Q. Was there nothing done at the meetings of the Board in reference to it?

A. Not at any meeting that I remember of when I was present.

125 Q. Was there anything done at any of the meetings?

A. I have seen no record of anything of the kind,
I think it probable that they desired its passage as 74
far as I know.

126 Q. When these purchases of Tennessee bonds were made of what were known as the new bonds issued after the war, were they selling lower than those issued before the war?

A. There was a slight difference at that time as I now remember. I have seen the new bonds sell higher, and I have seen them sell lower; the new bonds were, however, generally slightly below the
price of old bonds, which difference is correctly 75
shown by the reports of the New York Stock Exchange.

127 Q. A large proportion of the bonds delivered by the roads referred to were new bonds, were they not?

A. Yes, sir; but I don't remember the number or relative proportions of new and old bonds.

128 Q. That was the case with these seven hundred and forty bonds of the Tennessee and Pacific
roads, was it not? 76

A. I don't remember them as bonds that were issued to the Tennessee and Pacific Railroad. The Tennessee and Pacific Railroad was built since the war, and therefore it is reasonable to conclude they were new bonds.

129 Q. Hadn't you or your firm made a loan on the Tennessee and Pacific R. R. bonds before you became a purchaser of them?

77 A. Not that I know of. No, I think not.

130 Q. Was there not a loan made on them?

A. I don't know whether there was or not.

131 Q. Were you connected with the Memphis & Charleston R. R. in 1872?

A. I don't think I was.

132 Q. When you became an officer of Tennessee railroads after the war, had the railroad companies then possession of their property, or were some of them in the possession of the United State Government? 78

A. They all had possession as near as I can remember.

133 Q. They had received them from the United States Government?

A. Yes.

134 Q. They had accepted the conditions on which the United States Government had agreed to turn them over?

A. I should say they had. The records of the office will show better than I can tell. 79

135 Q. Didn't you or one of your firm send to the father of the complainant in this cause to borrow from him Tennessee bonds?

A. At what time?

136 Q. At any time?

A. Not that I remember of. He was frequently in the house; he was an acquaintance of Mr. Bosher.

137 Q. Do you know Dempsey Weaver?

80 A. Yes, sir.

138 Q. Was he a stockholder in Tennessee roads?

A. I don't know that he was. I think he was not. I wish to say further about Mr. Stevens, the father of complainant, that he was frequently in the house, conversed about Tennessee bonds, railroads, and other things; but whether he was ever applied to for the loan of his bonds I don't know.

139 Q. You testified before the Committee of the Tennessee Legislature during the present year, did you not? 81

A. I did.

140 Q. You remember a suit instituted in the City of New York, to obtain an injunction against the payment of principal and interest of some Tennessee bonds?

A. When?

141 Q. At any time?

A. That runs over a very long space of time. 82

142 Q. Did you know of such a suit?

A. I did not know of it. I heard a suit was instituted to compel the State to pay some past due bonds, which under the law were preferred over the interest.

143 Q. Didn't you know of it about the time it was instituted?

A. Yes, sir, I heard of it about the time the suit was instituted, that such suit was or had been instituted, that was in 1868, as I remember, May or 83 June.

144 Q. About that time did you not purchase Tennessee bonds?

A. I don't think I did.

145 Q. How much did the Mobile and Ohio bonds sell for?

A. I can't answer that from memory.

146 Q. How much did the company receive?

A. That I can't answer from memory.

147 Q. Was there not a difference from what 84 the company received and what the bonds sold for?

A. That I can't answer from memory. As I remember they were bought at 82, perhaps 85, possibly 80 cents on the dollar (but this is from memory only). They have sold at various prices since they left the hands of the company.

85 148 Q. I don't mean that at all. I mean was there not a difference in price at which the syndicate took the bonds and the prices they sold them to the public?

A. I think there was, but how much I don't know. They were sold in Europe, and are largely owned by foreign bankers.

149 Q. You are familiar with the opinion of East, Pryor & Baxter?

A. I have seen it.

86 150 Q. When did you first see it?

A. I think I first saw it sometime in the autumn of 1870, probably 1871. I can't call to mind when I did first see it.

151 Q. Then you were conscious when you entered into these transactions for the purchase of Tennessee bonds and the issuance of the new bonds claimed to hold the lien, that there was a question as to the rights or existing as to the rights of the holders of Tennessee State bonds?

87 A. You say I was conscious of this claim. My legal advisers told me the opinion of Davies & Davis was utterly worthless. I so read the law myself and so believe it to be. I was not aware of this question at the time I entered into the purchase of Tennessee bonds.

152 Q. You were conscious at the time you participated in the issuance of the new bonds?

A. I don't believe I ever heard that that question had been raised by the bondholders then; the East
88 Tennessee, Virginia, Georgia R. R. Co. had paid its debt to the State.

153 Q. But you knew of it before the bonds were all sold?

A. In the case of the East Tennessee, Virginia and Georgia. I knew of it before they were sold. I mean the Davies & Davis' opinion.

154 Q. And also of the Mobile and Ohio?

A. Yes, sir. This question was not much considered; we considered it wholly mythical—no foundation in fact for it. 89

155 Q. Don't you know that quite a large amount of the bonds delivered by these companies to the State of Tennessee had never been in current circulation in the hands of the public?

A. No; I do not.

156 Q. Didn't you get some of them from or through some of the officers of the company?

A. I don't call to mind I ever did. If I did it has escaped my memory. 90

157 Q. Don't you know that the public officers of the State of Tennessee, or some of them, stated in their official reports that the railroad companies of the State depreciated the price of Tennessee State bonds for the purpose of purchasing them under these Acts?

(Objected to as irrelevant.)

A. I do not know of any such reports being made. If there were it has escaped my memory. 91

158 Q. Suppose you had gone into the market as an agent for the purchase of Tennessee State bonds, and purchased them straight along from day to day, or at stated intervals from week to week, would not that in a short time, with the large amount of bonds you were to purchase, so greatly enhance the price of Tennessee State bonds as to have made their purchase very much more expensive? 92

(Objected to as irrelevant.)

A. The best answer I can give to that is the effect that the purchases did produce on the market. It enhanced the price of bonds considerably, as I now remember.

159 Q. Suppose you had not sold bonds during

93 that interval, would there not have been a still greater enhancement of price?

(Objected to.)

A. I would have executed orders very injudiciously if I had told Mr. A, B or C, I was obliged to have his bonds.

160 Q. Do you decline to answer?

A. That is my answer.

161 Q. Was not J. C. Mabry the person who dealt
94 for you in transactions in Tennessee bonds at the time you are referring to?

A. Not that I remember, but I don't propose to give you a schedule of the progress of my general business in New York.

162 Q. Will you produce your books showing the transactions in Tennessee bonds on account of these railroads?

A. I will not.

163 Q. Will you produce those portions of them?

95 A. No.

164 Q. Have you no accounts entered into with those railroad companies at that time?

A. In some of them. What railroad companies do you speak of?

165 Q. The East Tennessee and Virginia, the East Tennessee and Georgia, and other railroads named in the title. Will you produce those accounts?

A. I refer to my counsel on the subject; if they decline to do so I will let you know.

96 166 Q. Will you produce those accounts showing very large sales of Tennessee bonds?

A. If I produce the account they will speak more accurately than I can here.

167 Q. Why did you not afford the purchasers of the New so-called substitution bonds or the New Mortgage bonds of these R. R. companies, issued for the alleged extinguishment of this lien, so

far as claimed by you, why did you not afford them 97
the same opportunity of judging whether Tennessee State bonds were liens upon the R. R's as you had for yourself, through the legal opinions which had been published?

(Objected to.)

A. You refer to the Davies & Davis opinion?

168 Q. Yes, sir?

A. As far as I know every bond cited the law 98
under which it was issued, and they were public laws, and every man had sufficient opportunity of judging of the legal and binding effect as I had. And as to the Davies & Davis opinion, as I have heretofore stated, my counsel, in whom I place implicit confidence, stated it was wholly worthless and unsound. It passed from my mind and ceased to be considered by me as a matter of any importance whatever.

169 Q. You were one of the trustees of the Mobile & Ohio Substitution Mortgage Bonds, were you not? 99

A. I was.

170 Q. Well, did you think it equitable toward the purchasers of these substitution bonds to furnish them with the opinion in favor of their validity as liens on the roads, and not the opinion against their validity as liens?

A. I never furnished any opinion whether Mr.
Tracy's or any body else's as trustee. I simply in 100
my capacity as trustee signed the bonds. As to the publication of the prospectus, I do not know who did that. It certainly was not brought before me as a trustee, however.

171 Q. Don't you know if the opinion of Davies & Davis was circulated among prospective purchasers of these substitution bonds that it would have

101 presented some obstacles, whether serious or not, to the proposed sale of these bonds?

A. I think if there was any proof wanted of that fact. I call your attention now to the market price of the bonds, which, notwishstanding the Davies and Davis opinion and Mr. O'Conor's, opinion these bonds are selling on the New York Stock Exchange to-day at 102½ to 103. In my opinion this shows that the public does not attach any importance to any opinion which declares these Tennessee State Bonds 102 liens upon the roads.

172 Q. Then you think these Tennessee bondholders took the risk in their own hands under the notices which were incorporated in the bonds and the reference to the public acts of Tennessee?

A. I don't know where the risk comes in; according to my view there was none, what views they may have taken I can't say.

173 Q. In purchasing Tennessee bonds you bought them at the prices you have named with all the 103 overdue and unpaid coupons attached?

A. They were sold in that way.

174 Q. Those coupons were overdue and the companies used them for the payment of overdue interest?

A. Yes, sir, they were so used.

175 Q. If the railroad companies of Tennessee had promptly paid their interest, would not that have prevented a great depression in Tennessee State bonds?

104 A. That I can't say. The retiring act of 1869 was the most judicious act ever passed on behalf of the State of Tennessee.

176 Q. Were not the discounts at which the bonds were selling one of the inducements for the execution of these acts?

A. It certainly did afford an inducement, for this reason: at that time (the date of the passage of

these acts), there was hardly a railroad company in 105
the State that could raise money on its own bonds.
This act came to their relief in regard to the sinking fund payments, and gave them the means or facilities with which to raise money to meet their engagements. A further inducement was to get the companies out of the hands of the State and to separate the raiload system of the State of Tennessee entirely from the State; first, because I believed the roads would be worth more if freed from
interference of the State officers and directors: and 106
secondly, thereby the State debt would be so reduced that it would enable the State to resume the payment of interest, and take her place as one of the great States of the American Union, which I thought would enhance the value of my property in the State fifty per cent., and I still think so, that was the moving cause in this operation. It has been worth millions of dollars to the State of Tennessee and her bondholders by reducing the obliga-
tions of the State in a greater degree than could 107
have been done otherwise.

Furthermore, I may be permitted to say that this legislation was in entire harmony with the wish of every debt-paying man at the time, or nearly so. I never saw but one man who was honestly in favor of paying the debt of the State that opposed it, and that was Hon. Henry Cooper, and he afterwards expressed himself delighted with the result that had been accomplished in the reduction of the
State debt, and gave as his reason for then oppos- 108
ing it that he was afraid the railroads would not retire their debts under it, but would use it for speculating in State bonds.

177 Q. Do you not know that the judiciary committee of one of the Tennessee Houses at the session of 1869, when the act was under consideration, reported a bill in lieu of the bill pendiug for that

109 purpose, in which they required the railroad
companies to pay the State the identical bonds as
constituting liens upon the roads to which they
were issued.

A. I do not. If there was any such report I never read it.

178 Q. Don't you know that even on the very
last day when that substitution measure was under
consideration before one of the Houses of that General Assembly a resolution was offered for the
110 insertion of a proviso in that law in distinct terms
saving the liens of the bondholders on the roads ?

A. I don't think I ever saw it. I do not read legislative proceedings generally and never have.

179 Q. You were cognizant that the Legislature 1869-70 made investigation in reference to the frauds of the roads ?

A. I never saw any report to that effect.

180 Q. Had you heard of that investigation ?

A. I don't think I heard of such an investigation.

111 181 Q. Were not many of the bonds which you
purchased, issues which were the subject of that investigation ?

A. Not that I know of ; but in a general way there was a repudiating party which wanted every bond investigated.

182 Q. These legislative investigations and proceedings were directed principally to the new bonds ?

A. I think they were, so far as I know ; also the
112 last investigation took in the old bonds.

183 Q. I do not refer to that. I only ask you about the proceedings of 1869-70 ?

A. I don't know as to those.

184 Q. Those purchases were largely delivered back to the State ?

A. The new bonds were largely paid back to the State. Let me here call your attention to the fact

that all these investigations, if they ever did come 113
to my mind, would make very little impression on
me, for the reason that after the Democratic party
had obtained possession of the government, and had
a constitutional convention, and two or three legislatures, as was the case, and took no action towards
making any preference between new and old bonds,
or towards repudiating one bond and sustaining another, with the single exception of
those issued to the Mineral Home Railroad, I was
more and more convinced that no discrimination be- 114
tween the different classes of bonds would ever be
made; and in confirmation of this the proposition
of Gov. Marks to throw this bond and that over, as
recommended in his message, and resume payment
on a few, did not receive one single vote in the Legislature, as I remember, if it was voted on, and I
think it was.

185. Q. Will you testify that none of these railroad
companies, to which you refer as being connected
with at that time, used any means whatever, or that 115
none of their officials used any means whatsoever,
through publications or in any other mode, to depress the price of Tennessee bonds?

A. I will not testify to their action in any way,
for I was not advised of all their actions; the
records will inform you more accurately than I can.

186 Q. Don't you know that it was testified
before a committee of the Tennessee Legislature
this year that a sum of money was paid to a newspaper in the State of Tennessee and a receipt pro- 116
duced therefor, for the purpose of reducing or
"bearing" State bonds, and enabling the roads to
buy them at low figures?

(Objected to as incompetent.)

A. No such testimony was given before that committee in my presence.

117 187 Q. Mr. Calloway, to whom you referred, was president of the company in 1872?

A. President of what company?

188 Q. The East Tennessee and Georgia Railroad?

A. Mr. Calloway was not president in 1872 of the East Tennessee and Georgia Railroad; I was president at that time.

189 Q. Did not a director of the Memphis and Charleston Railroad, at one of the meetings held before the delivery of the bonds to the State by that 118 company, oppose making arrangements at that time for the purchase of the State bonds on the ground that the tendency in the State of Tennessee to repudiate the debt would be to lower the price of bonds, and enable them to buy at 30 or thereabouts?

A. Not that I know of; not since my connection with the roads, as far as I know or remember.

190 Q. Was not an effort made by the railroad companies, or some of them, to oppose or defeat the passage of the funding act of 1873, on the 119 ground that the passage of that act would enhance the price of bonds, and make it more difficult for the companies to purchase them?

A. Not that I know of or remember.

191 Q. Did you not expect when you negotiated the sale of some of those substitution bonds, that they would be sold to a great extent in Europe?

A. I might say that I hoped a market would be made for them there; as to what grounds I had for that expectation I don't call to mind just now.

120 192 Q. You stated that these substitution bonds contained a certificate in reference to their being liens; why did you not print the act of 11th February, 1852, under which the lien originated or extracts from it, with the same facility with which you printed an alleged transfer of that lien?

A. In what respect do you mean to say that we did print an alleged transfer of that lien?

193 Q. I am now asking why you did not print 121
the act of 1852, or any extracts from it?

A. The act of 1852 was not pertinent to the subject; I did not conceive that it had anything whatever to do with it; this transfer—this transfer of the lien was the authority under which the transaction took place, and therefore was deemed to be pertinent, and accordingly printed.

194 Q. You have had large experience in railroads, and in negotiating railroad securities; don't
you know that it is customary to print and circu- 122
late, or at least offer facilities to intending purchasers, to get copies of the mortgage securing the bonds?

A. It usually is so. In this case I think the mortgages securing the bonds were printed or circulated in that way.

195 Q. Do you mean the act of 1852?

A. No, because it had no connection whatever.

196 Q. The mortgages made February, 1869 or '70,
were they printed? 123

A. They were to some extent.

197 Q, Did they refer to the laws?

A. I think so; the bonds will show.

198 Q. Then I understand you that you considered that these new bonds were secured under the law of 1852?

A. I don't say so.

199 Q. Where did the lien get its origin?

A. I refer you to the laws for that.

200 Q. Well, don't you know that if you had 124
printed on the face of substitution bonds the language of the act of February 11th, 1852, "that so soon as the bonds of the State shall have been issued for the first section of the road as aforesaid they shall constitute a lien upon said section so prepared as aforesaid," and the balance of that section, it would at least have put the prospective purchas-

125 ers of the new bonds upon inquiry and examination
as to whether the State bonds were a lien upon the
properties or not?

A. What would be the effect of a garbled extract from that act, such as you have read, I am unable to say.

201 Q. Suppose you had printed the whole act?

A. I do believe that if the whole act had been
printed, it would be generally construed as giving
the bondholders no more connection with the rail-
126 road companies than the Emperor of China; I be-
lieve there is no more privity between the bond-
holder and the railroad company than with the
Chinese Emperor.

202 Q. I ask you, if that act had been printed, whether it would not have put the bondholder on his guard to make some inquiry as to whether the Tennessee State bonds had a security on those roads?

A. He would have been able to judge for himself,
127 but if he construed the act as I did, he would come
to the conclusion it didn't amount to anything;
the act of February 11, 1852, does not provide for
the identification of any bonds; he could not have
told to what road it was issued.

203 Q. Suppose you had printed on the bond or
circulated for the benefit of the purchasers of these
new securities the message of Gov. W. G. Brownlow,
of the State of Tennessee, or extracts from it, in
which he declares the State of Tennessee holds this
128 lien in trust for the benefit of the State bond-
holders?

(Objected to as immaterial and irrelevant, and a mere supposition without any proof.)

A. I don't think I have ever seen it, and the only way I heard of it was when it was brought into the discussion of the Mobile & Ohio case at Washington, in May, 1878. 129

204 Q. Suppose you had been the person to whom these bonds were offered, and the vendor had concealed from you the existence of an opinion given by the ex-Chief Justice of the State where the bonds were being offered for sale, would you have considered that equitable conduct on his part?

(Objected to as immaterial and irrelevant.)

A. In reply to that I say, if he had estimated the opinion as being worth as little as I did, when I had it examined by my learned counsel, in whose judgment I have perfect confidence, I should have considered that no obligation rested upon the vendor of those bonds to give it currency; I further say I never concealed the Davies & Davis opinion from anyone whomsoever in my life. 130

205 Q. Were not a large amount of bonds of the State issued and being issued at the time or shortly before the passage of this act of 1869? 131

A. The records of the State will show very much better than I can, but I think not.

206 Q. Was not the issue of those large amounts of bonds authorized under the legislation of 1866 and 1867, and other acts passed since the war, the occasion of depreciating Tennessee bonds?

A. I must refer you to the State records as to the issuance of bonds; I never had any connection with the issuance of Tennessee bonds, and whether it occasioned a depreciation in Tennessee bonds you can judge by the sales as well as I can. 132

207 Q. Were not the companies recipients of these bonds?

A. Some of my companies?

208 Q. The companies we first referred to?

A. They all received bonds at the close of the war; it was almost absolutely necessary for them

133 to receive new bonds in order to prevent the State
from losing the entire debt, as the railroads were in
a dilapidated and worn-out condition, bridges and
cross-ties being rotten, iron machinery worn out,
captured and destroyed, leaving the roads without
credit or abilty to earn money with which to make
the necessary physical restoration, so as to enable
them to earn money to pay the interest to the State
or anybody else with.

209 Q. Then they received a large amount of
134 bonds from the State, and after they were sold the
act of 1869 was passed to enable the companies to
buy back those bonds at the discount then prevailing?

A. The records of the State will show the amounts and times.

210 Q. I am not asking what the records show; please answer the question?

A. I don't think that was the object at all; I
have previously stated the purposes and objects of
135 the act as far as I understood them.

211 Q. That was the effect, was it not?

A. You can judge of the effect. The State of Tennessee was broken down and crippled, and so was everybody else; Georgia bonds and other State bonds were pretty much the same way; Georgia six per cent. bonds were then selling about the same price as Tennessee six per cent. bonds.

212 Q. You know Mr. Mabry?

A. I know J. M. Mabry.

136 213 Q. During his visits to New York City in
1867, 1868 and 1869, or any one of them, was he not
frequently in consultation with you?

A. Not very frequently, as he never did his general business with us.

214 Q. Sometimes he did?

A. Very rarely, indeed.

215 Q. Outside of your purchases for the railroad

companies, were you not a speculator in Tennessee bonds? 137

A. That is a very singular question. I bought and sold a great many things on the market; I dealt in Tennessee bonds; I had a great many customers in them.

216 Q. Were you ever short of them?

A. That question is too personal; I don't propose to answer it.

217 Q. Was it not to your interest during the purchase of these bonds on account of the railroads that the prices should be kept low? 138

A. As I now remember, I had very little interest in Tennessee bonds after the railroads commenced to buy. The efforts of my house were generally directed to fulfilling their engagements as bankers to the best of their ability.

218 Q. Who had charge of the legislative business of the East Tennessee, Virginia and Georgia R. R. Co. during the years 1868–69 and '70?

(Objected to.) 139

219 Q. Was not C. M. McGhee frequently in the city of Nashville during the period of 1869–70?

A. I was not there myself that I remember of, and I didn't see him there to the best of my recollection.

220 Q. Why will you not answer who had charge of the legislative business of these roads?

(Objected to as immaterial and irrelevant, and because there has been no evidence that anybody had charge of such business, the question assuming something which is wholly untrue.) 140

A. That is my answer.

220 Q. Did you take any measures to inform the

141 holders of Tennessee bonds of any proceedings, executive, legislative or judicial, of what transpired in the State of Tennessee?

A. In respect to what?

221 Q. In respect to the liens on railroads?

A. I did not. It had been practically considered for twenty-five years or thereabouts that the State was the entire and absolute owner of the lien, and held it without any kind of interest on behalf of the bondholders. I think the idea of its having
142 been a lien on behalf of the holders of State bonds would have been ridiculed in any part of Tennessee. The practical construction given to it from its very first inception up to the time this suit was commenced never hinted that the lien belonged to anybody else but the State. The State had thus practically construed the law during all this time, and I so read the law, and the bondholders up to the commencement of this suit had acquiesced in this construction.

143 222 Q. At the time of the passage of the act for the sale of delinquent railroads in Tennessee was it not contemplated by these railroad companies or by some of their officers, or other parties on their behalf, that they would become purchasers of these delinquent railroads, or some of them, at the sale which was expected?

(Objected to.)

144 A. I do not know that any such thing was contemplated; of course I don't know what was in the minds of the Corporation, but as to that having been the object of the passage of the act, I do not for one moment believe.

223 Q. Was it expected that they would buy these railroads and use them as feeders to the main line?

A. Expected by whom? 145

224 Q. By railroad officials?

A. I don't know what the railroad officials expected. It was expected that the highest and best bidder would become the owner of the roads, so far as I know.

225 Q. Will you testify that there is no record or paper of The East Tennessee, Virginia and Georgia Railroad Company or it officers which purports or indicates any action in reference to the passage of the act for the sale of delinquent roads, or any pur- 146 chases or transactions consequent thereon?

A. I have never seen such paper; if any such exists I don't know of it; I cannot testify to a nonentity; if it is permissible, I wish to state that any road which the East Tennessee, Virginia and Georgia Railroad bought at the State sales can be bought for less than it cost. They bought one road for $23,000 and sacrificed it for less than half its cost, to avoid being compelled to keep it up and run it, as its earnings did not anything like pay the 147 expenses of operating and maintaining it, nor have the earnings of the other roads done so.

Adjourned to Sep. 16, 1879.
" " " 29, "
" " Oct. 8, "
" " " 10, "
" " " 11, "
" " " 13, "

148

Oct. 13, 1879.

Direct examination resumed by Mr. Andrews:

226 Q. Through whom did the East Tennessee, Virginia and Georgia Railroad Company negotiate the sale of the new bonds?

A. The contract provides that the Fourth National Bank should sell the bonds either itself or through

149 agents, for which it was to have 2½ per cent. commis-
sion. The account of sales of bonds shows that they
sold, under that contract, 1,393 bonds of $1,000 each,
on which a commission of $34,824 was paid.

227 Q. Who were the agents or brokers who sold the bonds for the bank?

A. I think that R. T. Wilson & Co. sold most, if
not all of them, and in cases where they sold the
bank gave them one-half of the commission paid it.
This applies to the 1,393 bonds sold as above stated.
150 The accounts of sales show sales of $3,087,000 of the
bonds. No commission appears to have been
charged on the excess of sales over the 1,393 bonds
sold by the bank. Probably I was chosen Presi-
dent of the road and made no charge for sale after
that time. These three millions and eighty-seven
thousand dollars netted eighty-three $\frac{59}{100}$ cents on
the dollar to the road.

228 Q. In what places did your firm of R. T. Wilson & Co. make the sales of the new bonds?

151 A. Mainly, if not entirely, in New York.

229 Q. Has not your firm paid the interest on the bonds?

A. They have not. The interest has been paid by the Gallatin National Bank as agent of the East Tennessee, Virginia and Georgia Railroad.

230 Q. Will you give the names of the persons who purchased these new bonds from your firm?

A. Adrian Iselin & Co., mainly, if not entirely.

231 Q. Where did Adrian Iselin & Co. sell those
152 bonds?

A. I must refer you to them. Really I do not know where they sold them all.

232 Q. Will you state the names of some of the holders of those bonds?

A. I do not know who the present holder are.

233 Q. How much did A. Iselin & Co. pay for those bonds?

A. The accounts I have presented will show the exact price paid by A. Iselin & Co., and other parties, if there were other parties. 153

234 Q. Did not A. Iselin & Co. sell those bonds to a large extent in the city of Geneva, through the firm of Lombard, Odier & Co., and in other places in Switzerland.

A. I must refer you to them for that information.

235 Q. Will you produce the contracts between R. T. Wilson & Co. and A. Iselin & Co., in reference to the sale of those bonds? 154

A. I do not believe I have any written contract of it; I probably have copies of some letters for a portion of it.

236 Q. Please produce them at the adjourned examination.

237 Q. Will you produce the accounts on the books of R. T. Wilson & Co., with the firm of A. Iselin & Co., during the years 1869-70, '71 and '72, in relation to transactions in Tennessee State bonds and in the new bonds of the East Tennessee, Virginia & Georgia R. R. Co., or during any part of that time? 155

> (Respondent's counsel objects to this question as incompetent and illegal, because it relates to and embraces matters wholly private, if they exist at all, between R. T. Wilson & Co. and A. Iselin & Co., and having no bearing upon the issues of this case.)

A. As the question has been explained by the complainant's counsel, I will confer with my counsel, and if advised that it is material to the matter at issue, I will produce the accounts so far as they relate to the retirement of the debt of the East Tennessee, Virginia & Georgia R. R. Co., to the State, and the sale of its bonds issued in lieu thereof. 156

238 Q. Did not any paper pass from A. Iselin &

157 Co. to you or your firm, showing at what price A. Iselin & Co., or their agents, sold the new bonds?

A. No such paper has passed that I now call to mind, as I don't remember it, and I don't think there has.

239 Q. Have you not stated that there was a profit made on the sale of the new bonds, over and above the amount you stated as having been received by the company?

> 158 (Respondent's counsel object, because it neither gives the time, place or person to whom the statement is alleged to have been made, and because the question is without relevancy or competency in its present indefinite shape.

A. In reply to that, I don't know whether I have or not, in the case of East Tennessee, Virginia & Georgia R. R.

240 Q. Will you produce a list as far as you can
159 obtain it, of the holders of these new bonds, as well on the East Tennessee, Virginia & Georgia R. R., as on the Memphis & Charleston, and the Nashville, Chattanooga & St. Louis?

A. I don't know who holds them except myself; I hold some of the Mephis & Charleston; no others.

Adjourned to Oct. 14th, 1879, at 11 A. M.

160

NEW YORK, Oct. 14, 1879.

Direct examination resumed by MR. ANDREWS:

> Complainant's counsel offers in evidence "Report of Committee appointed to investigate the State Debt—Nashville, Tenn.," with testimony annexed to same, 1879, including

that of R. T. Wilson as an admission and declaration. 161

Respondent's counsel objects to the same as incompetent, illegal and hearsay.

It is agreed that this report and testimony may be produced in Court subject to the objection of respondents without attaching this report and testimony to the deposition of this witness.

162

The witness, further answering the direct interrogatories, says:

Upon further consideration respecting the inquiries contained in interrogatories 13, 14, 15, I say that I have made careful examinations of the memorandums of purchases of the R. R. stock in my possession, and find that these show that I bought from the close of the war up to 1872 the sum of about $292,000 of the par value of the stock of 163 the East Tennessee & Georgia and of the Consolidated Company at an average cost of $37.\frac{65}{100}$ on the dollar.

In further answer to interrogatory No. 73 I herewith file a copy of the opinion of Charles Tracy, which was referred to as being published with the prospectus of the Mobile & Ohio bonds in my answer to said interrogatory. Marked Complainant's Exhibit No. 1. W. H. D. L., Spl. Exr.

In correction of my answer to the 76th interrogatory I now say that I first saw the opinion of Davies & Davis in the latter part of May, 1870, but I don't remember to have read it then or since then. 164

In further answer to direct interrogatories Nos. 124, 169, 170, 171, 172, I herewith submit and file a copy of the contract with the 4th National Bank for the sale of the substitution bonds of the East

165 Tennessee, Va. & Ga. R. R. Co., Marked Complt's
Exhibit No. 2. W. H. D. L., Spl. Exr.

I also file herewith copy of the contracts between
R. T. Wilson & Co. and the East Tennessee, Va.
& Ga. R. R. Co., under which the bonds of the
State of Tennessee were sold to the East Tenn., Va.
& Ga. R. R. Co. with which to retire its debt to the
State; and also statement or extract from the books
of R. T. Wilson & Co. of the account as rendered
to the road, embracing the entries made on their
166 books of said transactions. Marked Complt's Ex-
hibit No. 3, W. H. D. L., Spl. Exr.; and Complt's
Exhibit No. 4, W. H. D. L., Spl. Exr.

In further answer to direct interrogatories 137, 8 and 9, as to a member of my firm applying to Calvin Stevens, father of complainant, to borrow Tennessee bonds, on enquiring I am informed by Mr. C. H. Bosher, my partner, that he did so apply.

In further answer to direct interrogatory 156 I
think I saw the Davies & Davis opinion in the latter
167 part of May, 1870, being about one month after the
East Tennessee, Virginia and Georgia R. R. Co.
had bought most of their bonds with which to pay
their debt to the State.

In reply to direct interrogatory No. I here-
with submit and file the following correspondence
between R. T. Wilson & Co., and Messrs. A. Iselin
& Co., which exhibit all the contracts made for the
sale of the East Tennessee, Virginia and Georgia
substitution bonds by the former to the latter, viz.:
168 Copy of letters from R. T. W. & Co. to A. Iselin &
Co., dated 13th May, &c.

(Marked complainants' Exhibit No. 5, W. H. D. L., Special Ex'r.)

In reply to direct interrogatory No. requesting the production of the accounts as shown by R. T. Wilson & Co's. books with Messrs. A. Iselin & Co., I have carefully examined the books of R. T. Wilson & Co., and they do not contain a single account with A. Iselin & Co., during the years named, and I herewith file copy of the account of A. Iselin & Co. rendered, showing the purchase of the only interest I ever had in any of the substitution bonds of the East Tennessee and Virginia R. R. Co. 169

(Marked Complainants' Exhibit No. 6, W. H. D. L. Special Ex'r.)

That interest occurred in this way—at the outset of the sale of the East Tennessee, Virginia and Georgia substitution bonds, in order to give them a start, I agreed in conjunction with two other parties to buy $125,000 of these substitution bonds. This was in May, 1870, and before I knew Mr. Iselin, as my acquaintance with him began in the early part of that month as I now recollect. The arrangement to sell to Mr. Iselin was afterwards entered upon, and to show my faith in the bonds, I still proposed to take an interest in the purchase of the $125,000 with an option of $375,000 of the $500,000, which I had been in treaty about with the other parties. They fell out, and I told the company that I would take in my name the $500,000 interest, but that it must take two-fifths of these $500,000 for its own account. 170 171

The road and myself did take this interest and the bonds were offered in Europe, but the Franco-German war intervened and prevented the sale of most of them and the transaction was incomplete, and in August, 1870 A. Iselin & Co. bought out this interest, paying $7,500 for it, $4,500 of which was placed to the credit of the road and $3,000 to my credit. This is all the interest I ever had in these bonds directly or indirectly, and this interest came about in the manner I have stated, nor did I have any interest in the profits of the sales made by Messrs. A. 172

173 Iselin & Co., or anybody else, of these substitution bonds except as above stated.

Cross-examination by **Mr. Humes**:

241 x Q. Mr. Wilson, you have stated in your examination in chief the feelings of the railroad men and their action respecting the origin of the Act of 1869-70. What was the feeling of the leading men of the State in regard to it as a measure of
174 State relief, so far as you know?

A. Well, in reply to that question, it is proper for me to state that at the interview between Branner, Calloway, Judge Nelson, and myself, previously referred to, the question of how it would be viewed from the side of the State was thought of, and it was agreed that either Judge Nelson or Mr. Calloway should ascertain the feeling of prominent citizens as early as could conveniently be done, and before making any move toward having it enacted
175 into a law, whereupon some of them conversed with a few prominent citizens about Knoxville, (among whom was Ex-Gov. Brownlow, who, I believe, had taken or was about to take his seat as United States Senator), upon the subject of the State's interest in the matter.

I was informed that he seized upon the idea with great interest, and said that it was the very thing that the State needed. That it would afford a remedy for the embarrassed condition of the State
176 finances, and enable it to get in much more rapidly than could otherwise be done its outstanding indebtedness, which in the end, he said, would work out the salvation of the State's credit, and if it could be successfully carried out, would so reduce the debt as to enable the State to meet the interest without serious embarrassment to her citizens. This much I learned while I remained at Knoxville,

say two or three days after this interview respecting the Act. After which time as I now remember I returned to New York, and received frequent letters from Mr. Calloway and others of the great popularity of the measure as viewed from the State's side of the question. All agreed, so far as I heard, that any plan which would result in so largely reducing the outstanding indebtedness of the State must inevitably work a great benefit to it. And as I have previously stated, I did not know of but one man in the State who was honestly in favor of paying the debt, who did not advocate the measure in the most hearty manner, solely as a matter of public interest to the State, to say nothing of the railroad interest in it, and that one man afterwards upon seeing the great reduction of the debt that had been effected by it, said that he most heartily approved of it. 177 178

242 x Q. In interrogatory in chief No. 45, when counsel for complainants asked you as to report of the Comptroller showing that R. T. Wilson & Company were fiscal agents of the State of Tennessee, did he produce such report, and did you not request him to do so, and has he not wholly failed to do so during this examination? 179

A. I state I did request him, and he has failed to do so.

243 x Q. What sources or means of information did the holders of State bonds residing in Tennessee and New York have of these settlements of the railroads with the State while they were going on? 180

A. The matter was a subject of public discussion in the papers of Tennessee, and the large purchases of Tennessee bonds attracted public notice more or less through the financial columns of the papers of New York, which attributed the large transactions in them to purchases made for

181 railroad account, with which to retire their indebtedness to the State, and in addition to this the substitution bonds issued in lieu of the Tennessee State bonds were advertised in New York, for sale, as is shown by the following copies of advertisements, from which it will be seen that each advertisement gave notice that the substitution bonds had been issued in lieu of the debt to the State of Tennessee, and carrying its lien by assignment from the State. I present and file herewith copies of these adver-
182 tisements and names of the papers in which they were published as Exhibits to my deposition.

(Marked Respondent's Exhibit No. 1.—W. H. D. L., Spl. Ex'r.)

244 x Q. Do you know of or did you ever hear of from the year 1865 to the bringing of these suits of any coupon holder of the bonds of Tennessee presenting them for payment to any railroad com-
183 pany to whom the bonds had been issued ?

A. No, I never did ; nor do I believe any coupon holder ever did make such a demand against any railroad company. I think if such a demand had had been made I certainly would have known of it, as I had direct relations with a great many roads and knew intimately the officers of almost every railroad to which bonds had been issued. If such a thing had ever transpired I would have been informed of it. But on the contrary, notwith-
184 standing the fact that the State of Tennessee was in default upon its interest from the outbreak of the war up to the date of the bringing of this suit, with a few exceptional times when it was paying, during all this time the bondholders by their repeated funding of their past due coupons into the new bonds of the State and by registering their bonds as straight bonds of the

State, time and again said by their acts that they 185 looked to the State alone as their debtor, and never intimated any claim against a railroad.

245 x Q. Who were the Commissioners for the sale of delinquent roads referred to in interrogatory in chief No. 115, and what was their character and standing in Tennessee?

A. They were Ex-Judges Robert G. MacKinney and Archibald Wright of the Supreme Court of the State, and Francis B. Fogg, an eminent lawyer. And it may safely be said that for probity, legal 186 learning, and spotless character no three men in any State enjoyed a more enviable reputation. They were all men of independent fortune, over sixty years of age, without any then or former connection with the railroads; being citizens whose patriotism and fidelity to the welfare of the State was not questioned by a single individual in it. While MacKinney and Wright were on the Supreme Court for a great many years the decisions of the Court of which they were two out of the three commanded 187 the respect of the legal mind of America.

The lawyers employed by them to conduct the business were the Hon. Edwin Ewing, Hon. Wm. F. Cooper and Wm. B. Reese; the two former of whom are universally acknowledged to be the two leading lawyers in the State. And Mr. Cooper was before the war and now is one of the Supreme Judges of the State.

246 x Q. In your answer to interrogatory in chief No. 141, you say that the father of the complainant 188 was frequently in your office, and that you conversed with him about Tennessee bonds and railroads and other things. Did he know about these railroad settlements that were going on?

A. I do not certainly remember whether he did or not, but my impression is I told him as I uniformly did holders of Tennessee bonds who talked to me on the subject.

189 247 x Q. Please state the present price of East Tennessee, Va., and Ga. Railroad stock?

A. It is about 37½ cents on the dollar.

248 x Q. How many dividends have you received from the East Tennessee, Va. and Ga. Railroad since the war?

A. I think five or six dividends of 3 per cent. each.

249 x Q. You stated in your examination in chief that the opinion of Charles Tracy was published;
190 did that opinion touch upon the subject of the lien of the Tennessee bondholders?

A. It did not.

250 x Q. Will you produce that opinion?

A. I will; and I now herewith file a copy as an Exhibit to my deposition.

(Opinion already filed as Complainants' Exhibit No. 1 hereto. W. H. D. L., Sp'l Ex'r.)

191 251 x Q. What other instance besides the one given in your answer to interrogatory 31 in chief do you know of where a railroad company made a payment or payments on their debts to the State in any bonds of the State. Please give any additional reasons which you may have going to show that the payment of the railroad debts to the State in any bonds of the State with or without the legislation of 1869 and 70, was in accordance with the custom and wish of the State?

192 A. Besides the Louisville & Nashville R.R. Co. so paying off its debt after the war, say in 1866 and before the Acts of 1869 and 1870 were passed. I have the example of the payment made by the East Tennessee and Ga. R. R. Company on the 4th of June, 1862, in which that company paid $100,000 of its indebtedness to the State in any bonds of the State. It is true that this payment pur-

ports to be made to the sinking fund, but 193
it is to be remembered that the sinking fund payments had been suspended the year previous by Statute, and there was no payment due to the sinking fund, as is fully shown by a previous receipt for nine thousand dollars, dated Nov. 2, 1861, which receipt together with other receipts for payments made by that company, I herewith file,

(Marked "Respt's' Exhibit, No 2." W. H. D. L., Spc'l Ex'r.)

194

I also herewith file a certified copy of the account of the East Tennessee and Georgia Railroad Company with the State,

(Marked "Resp't's Exhibit No. 3." W. H. D. L., Spc'l Ex'r.)

This shows that this payment and others were passed directly to the credit of the company on the books of the State when made. No man in, or out of the State, up to the time of the passage of the
Acts of 1869 and 1870, so far as I ever heard of, for 195
one moment supposed that it was necessary to enact further legislation in order to get the privilege of paying the debts of the roads in any bonds of the State—that is, no railroad man ever supposed such a thing was necessary. They had had too many urgent demands made upon them for payments to the sinking fund, to admit of their believing that it was necessary to procure legislation in order to get the privilege of paying their debts in the
identical thing in which the State was constantly 196
pressing them to pay without such legislation; hence, as I have stated in my direct answer, the sole and whole object of the legislation of 1869 and 1870 was to enable the roads to substitute their own bonds so as to carry with them the lien of the State, to raise money with which to buy Tennessee bonds to pay their debts to the State, and thus meet the

197 pressing demands of the State, which were shortly to be made upon the roads in the way of their dues to the Sinking Fund. These Sinking Fund payments as stated in answer to direct interrogatory No. ——were to be resumed in 1870.

252 x Q. You say in your answer to Direct Interrogatory No. 95, that you did not know that the Tennessee and Pacific bonds that you bought or received in payment for bonds loaned were issued to the Tennessee and Pacific Road at the time 198 you bought them, and that you did not know to what roads bonds were issued when you bought them, and that you had no means of knowing this at the time you purchased bonds. Are you familiar with the custom of buying and selling Tennessee bonds on the New York Stock Exchange, and, if so, please state the manner of buying and selling bonds there, and also please state whether the purchaser of bonds has any means of knowing to what road, or 199 whether to any road at all, or for what purpose, the bonds that he is buying were issued at the time he buys them?

A. I am perfectly familiar with the rules and customs of buying and selling Tennessee bonds at the New York Stock Exchange. The bonds are classified into "Old Tenn. 6s," "New Tenn. 6s," and "New Series Tenn. 6s." The old bonds embraced all 6% bonds issued before the war to railroads, either as loans, or in payment for stock subscrip- 200 tions, those issued to turnpikes, to the agricultural bureau, to build the capital with, and for stock in banks, and for any purpose whatsoever—of these there were outstanding at the close of the war about $15,000,000 in round numbers issued for various purposes.

The New Tenn. Bonds embraced the interest funded under the act of 1866, and also the new

bonds loaned to railroads and turnpikes, and also 201
some that were issued and sold to raise money for
State purposes.

The New Series embraced bonds funded under subsequent funding acts to the act of 1866.

Now when a purchase is made in the regular way for "old," "new," or "new series,"
as the case may be, it is for delivery the
following day, or it may be for cash, which
means the same day; or it may be seller sixty,
which means that the seller must deliver on or be- 202
fore sixty days from date of sale. In any case a
delivery of any bonds of the class which is sold
fulfils the obligation, and is a good delivery. The
buyer cannot tell until his bonds are delivered to
him at his office either the next day, or, if sold for
cash, the same day, or, if sold seller sixty, sixty days
hence, either the number of his bond, or for what
purpose it was issued, nor, if issued to a railroad,
to what railroad. No man buying a bond in the
New York Stock Exchange ever did know to what 203
road it was issued when he bought it, or whether to
any road at all, nor could he do so under the rules
of the Stock Exchange.

253 x Q. Has there been any difference at any time between the prices of old Tenn. 6% bonds, issued to railroads as loans, and those issued by the State for purely State purposes? Please answer the same question as to new bonds?

A. There never has been any difference in the
price of either old or new 6% bonds between those 204
issued to railroads and those issued for State purposes.

About the time the parties were preparing themselves with bonds, or some of them, upon which to bring these suits, I heard that they were going round from office to office seeking to exchange the bonds they had for bonds on solvent roads, and were offer-

205 ing as high as one cent on the dollar difference between bonds issued to no roads or to insolvent roads and those issued to solvent roads, and this is the only exception, and even it is not conducted through purchases or exchanges made at the Stock Exchange, which rules the prices of bonds of all kinds.

254 x Q. Did you or your firm ever make any loans on Pacific and Tennessee bonds inquired about in direct interrogatories 131, 132, 133, 134. to those 206 holding them?

A. Neither I nor my firm ever made any loan on Pacific and Tennessee bonds, either directly or indirectly, to those holding them.

255 x Q. Direct interrogatories 173 and 174 asks why you failed to afford Tennessee bond holders the same opportunity of judging whether the Tennessee State bonds were liens upon the railroads as you had yourself. Did you ever refuse or deny to any Tennessee State bondholder equal means of know-207 ing his rights which you had yourself?

A. I never refused or kept back from them (the Tennessee bondholders) any information upon this subject, but on the contrary I told one and all, when asked (and I was asked by a great many of them respecting the probable value of these bonds), what was being done, in a general way, by the roads in retiring their debts to the State, and frequently alluded to the laws under which these settlements were being made, and, so far as I now recollect, the 208 bondholders, without a single exception, approved of the roads paying their debts to the State, and joined with me in the opinion that this was the best and surest way of restoring the credit of the State. Besides this the purchases of bonds by the roads and the payment of their indebtedness to the State, and the sale of the New Railroad substitution bonds were matters of public notoriety both in New York and in Tennesee.

256 x Q. Have you copies of the receipts of the payments by the East Tennessee, Virginia and Georgia Railroad Company to the State of its debt, if you file them? 209

A. I have and I herewith produce and file them.

(Receipts produced, and marked Recepts. Exhibits No. 4, W. H. D. L., Spl. Ex'r.)

Adjourned to Oct. 23d.

210

Oct. 23d, 1879.

R. T. Wilson recalled and examined by Mr. Andrews:

Re-direct examination:

257 Q. Have you been able to find the statement or letter referred to in your previous examination?

A. I have been unable to find anything that the question referred to, as I understood it.

258 Q. Is paper now shown to you a copy of the document signed by you and which paper is now offered in evidence and marked "Complainants Exhibit, No. 7, W. H. D. L., Spc'l Exr. 211

A. With the exception of some entries on the back on the 10th page and some minor errors of copy, I think it is. This paper, which purports to be a copy of a letter, and addressed to John T. Terry, was hastily drawn by me and read to Mr. Terry, but as I now remember never delivered to him. In explanation of some statements it contains, I here state that I had nothing more to do with the act of February 25th, 1869, nor with its preparation or passage, nor with the act of 20th January, 1870, nor with the acts for sale of Insolvent Roads than I have previously stated in this deposition. The statement in this letter as to the preparation of the act of February 25th, 1869, and 212

213 that I induced its passage, simply meant to say that
at the conference with Judge Nelson and others.
previously mentioned in this deposition, I drew the
memorandum of the main features of the act, and
left it with Judge Neilson, telling him and the
railroad men with whom I was in conference, that I
thought if a law of that kind were passed, it would
enable the railroad companies to retire at least a
portion of their indebtedness to the State. I did
not mean to say in this letter that I had anything
214 more to do with the passage of the act, than I have
previously stated in this deposition, nor with the passage
of the act of 20th January, 1870. Respecting the
statement contained in this letter as to the legislation
for the sale of defaulting roads, I only meant
to say that I had, in common with others, suggested
and heartily approved the State's selling its interests
in the defaulting roads. This suggestion,
however, as I now remember, was not original with
me, nor was it made at the conference with Judge
215 Nelson and others, previously referred to in this
deposition; nor did I ever, so far as I now remember,
solicit the passage of the bill in the legislature
or any part thereof for the sale
of the defaulting roads; although as a
State measure and as an owner of a large property
interest to be benefited, and subserved by anything
that would promote the public welfare of the State,
I earnestly favored these measures, sincerely believing
that their adoption and carrying into effect
216 would save the State many millions of dollars, and
from a most careful and intimate observation of the
effects produced under this legislation, in the way
of reducing the State indebtedness, I am
more and more convinced of the soundness
of my judgment in respect to that matter,
believing that it has resulted in the saving
to the State of several millions of dollars. I

wish to say further, in respect to the classifying of 217
myself as a railroad man in said letter, that I only
meant to say that I was a director in one of the
roads, and a large stockholder in it. I was not at
that time an officer in a railroad company except as
previously stated.

This letter was induced by an intimation coming
from Mr. Terry to the effect that if the rail-
road companies did not raise a fund or
contribute towards a fund to procure a settle-
ment of the State debt with the State, that 218
the bondholders would probably sue the rail-
roads. On page 5 and line 13 it should read "and
the State its debt," instead of "their." On the
18th line of the 5th page read "defeat" instead of
"deferred." In explanation of the sentence com-
mencing on the 3d line of the 7th page of said
letter, in which I state that my associates and I re-
tired about fifteen millions of the debts of the rail-
roads, I did not mean my partners and myself; but
I meant to say that my firm and such houses as 219
Drexel, Winthrop & Co., now Drexel, Morgan &
Co., Adrian Iselin & Co., The New York Guaran-
ty & Indemnity Co., Duncan, Sherman & Co.,
Roosevelt & Sons, and other prominent houses in
this city who co-operated with me, had retired
about that amount of indebtedness of the railroads
to the State, which embraces the payment of debts
under the retirement act, and the payment made by
the parties purchasing the sold roads, through finan-
cial arrangements made by myself and my asso- 220
ciates. On the 15th line on page 7 the word "for"
should read "or." On the 17th line of page 7 read
"usually" for "usual."

Cross examination by **Mr. Humes**:

259 x Q. In your answer in chief you have said the
State saved millions by the sale of insolvent roads,

221 and by effecting the settlements with solvent roads by and under the acts of 1869 and 1870. Now, please state the facts as to the sold roads, what they sold for, and what they are now worth; and what was the operation and effect as to the solvent roads, and how the State saved money through the retiring of the debts due to it from the solvent roads?

A. The Nashville & North Western R. R. was sold for $2,400,000, being a sum very much more 222 than it was worth, as will appear from the following statement of its earnings and expenses:

That road, having defaulted on its interest, fell into the hands of the State under receivership, and was leased to the Nashville & Chattanooga R. R. Co., which operated it for eighteen months previous to the 30th of June, 1871. The report of the lessee shows that it earned during this period $606,605.21. And that during the same time there was expended upon it.............$983,684 44

223

Showing for that period a net loss of....$377,079 23

For the next ensuing twelve months it was operated by the Nashville & Chattanooga R. R. Co. as purchaser. The earnings for the fiscal year ending June 30, 1872, were.................$613,679 13
Operating and renewal expenses...... 984,526 38

224 Net loss..........................$370,847 25

For the next fiscal year, ending June 30th, 1873, the earnings were.............. 642,681 36
Operating and renewal expenses...... 559,150 33

Net income.....................$83,531 03

For the following fiscal years, the expenses of this

division of the Nashville, Chattanooga & St. Louis 225
Railway are consolidated with the general expenses of the whole line.

The freight earnings, however, are kept separate, and the passenger earnings are assumed upon the same relative basis to the freight earnings, which they bore during the previous years when they were kept separately. Showing the following result:

Total income for the year ending June 30,	1874,	490,464 94	226
" " " "	1875,	426,066 74
" " " "	1876,	416,454 49
" " " "	1877,	350,230 38

At the same relative rate of expenditure as was made in operating the road for the fiscal year ending June 30, 1873, this would show each of the succeeding years to pay a net loss, which was probably not the case, but it is certain that the net income of the road for these four years, was not sufficient to
pay the interest upon one-half what it cost. 227

For the eighteen months that it was operated for account of the State, by the Nashville & Chattanooga R. R. Co., as receiver and lessee, the net loss was about $377,000.

For the first year after the purchase of the road, it was very nearly as large, and had it remained in the hands of the State, and not been sold out, it is almost certain that the State would have been brought in debt every year on account of operating expenses,
and would ultimately have lost its entire debt upon 228
the road. I am intimately acquainted with the road, having had a large interest in the Nashville, Chattanooga & St. Louis Railway, of which it formed a part, and have been a careful observer of its operations, from the day it was purchased up to the present time, and I most unhesitatingly state that I do not believe, from the best of my judgment, that it was worth one-half what the State sold it for.

292 Then, further, the Memphis and Charleston Railroad
Company bought from the State, through
Wicks & Donnigan, the McMinnville, Manchester
and Southwestern Railroad, and the Winchester
and Alabama Railroad, paying to the State for these
roads $600,000 in Tennessee bonds, carrying coupon
of January, 1871. It also paid to the stockholders
of these companies, as part of the purchase money,
in order to remove some complications, $350,000 in
the stock of the Memphis and Charleston Railroad
302 Company, and expended in grading and farther extension
of the Southwestern road $137,691.78 in
cash.

After operating these roads for several years, during
which time the net income did not amount to
half enough to pay the interest on their cost, they
were sold to the Nashville, Chattanooga and St.
Louis Railway for $320,000 of the forty year six per
cent. bonds of the latter Company; these bonds
were sold at about 70c. on the dollar, being about
231 the same price which the Memphis and Charleston
Railroad Company paid for the State bonds with
which to make payment to the State. The accounts
on the books of the Memphis and Charleston Railroad
Company show a clear loss on this venture of
$557,791.93, which is correct, and I believe that the
Nashville, Chattanooga and St. Louis Railway, as
purchaser, paid the full value for the roads bought
from the State by the Memphis and Charleston
Railroad Company, upon which this loss was made.

232 I will take next the Cincinnati, Cumberland Gap
and Charleston road, which was purchased for
$300,000 in Tennessee State bonds by C. M. McGhee
and myself, as trustees for the East Tennessee, Virginia
and Georgia Railroad Company, which has
since been operated by that company in the most
economical manner, and the income of which has
failed to pay operating expenses, to say nothing of

interest on its cost, by from fifteen to eighteen thou- 233
sand dollars. Hence thus far this road has really
been worth nothing to the purchasers, and had the
State continued operating these roads through re-
ceiverships I give it as my deliberate conviction
that it would have been brought in debt every year
on account of their operating expenses, and long
before this time the roads would have been so run
down and worn out as to render them unsafe, and
incapable of being operated at any net profit, and
in the end the State would have lost most if not all 234
of the debt which it held upon them.

The East Tennessee, Virginia and Georgia Railroad Company bought the Rogersville and Jefferson Railroad for $23,000, and after keeping it for several years, and operating it at a loss, sold it for notes, on which it realized about six thousand five hundred dollars.

The Memphis, Clarksville & Louisville R. R.,
which was purchased by the Louisville and Nash-
ville road, was in such a dilapidated condition as to 235
make it almost impossible to operate it except at a
loss, but through the support given it by the Louisville & Nashville Railroad in the shape of means and business it has been restored, and perhaps is now as valuable, if not more valuable, than any of the sold roads; without this support, however, it would have entailed a much heavier loss upon the State than was the case.

And now, as to the saving to the State through
the retirement of the debts under the Acts of 1869 236
and 1870.

What I meant to say was this, that there was scarcely a road in the State which would have been able to resume and maintain the payments to the sinking fund when it became payable in 1870, and that as a consequence of their failure to do so nearly every road would have gone into the hands of a receiver and been sold out, or else run at a continuous loss to the State.

Take for instance the East Tennessee, Va. & Ga. Railroad; at the date it made its settlement with the State it owed the State $4,117,000, and the Government had a claim upon it for about $637,000, which latter was claimed to be a paramount lien to all others, and to obtain which the War Department had appointed a military receiver, who had only been temporarily restrained from taking possession through the intervention of the Circuit Court of the United States; the Government claim was settled under an act of Congress a year or two subsequent for about $200,000 mainly in ten and fifteen year bonds of the road, and the State debt was settled at a saving to the company of about $1,300,000, showing a total reduction of the indebtedness on which interest had to be paid of about . . . . $1,700,000.

The road has since been run with the greatest economy, and the net earnings have only sufficed to pay the interest on the reduced indebtedness, and to pay six dividends of three per cent. on less than two millions of dollars, amounting in the aggregate to . . . . $354,289.32.

While the four per cent. sinking fund on the $4,117,000 for the nine years now elapsed is	$1,482,120,
And the six per cent. interest on the $1,300,000 saved in the retirement of the State debt amounts to . . .	702,000,
Being a total of	$2,184,120.
These two amounts being in excess of the amount of dividend paid by the sum of	$1,829,830.68.

Which amount it would have been utterly impossible for the road to pay; hence, in all probability,

it would have gone into the hands of a receiver and 241
been sold out.

From an intimate knowledge of the condition of the Memphis and Charleston Railroad Co., I can state truly that that road would have been sold out but for the forbearance on the part of the State granted to the management of that company in order to give it time to retire its debt, which it was finally enabled to do mainly through parties that were interested in the welfare of the company, and who
supplied the money in order to save themselves, as 242
far as possible from the great loss that would have been entailed upon them by letting the road pass into the hands of the State.

At the time that the lien held by the State was purchased from the State by A. Iselin & Co., that road was liable to have passed into the hands of a receiver for default in the payment of sinking fund and interest, and had such been the case I do not believe the State would have realized two-thirds of
its debt. 243

The Mobile & Ohio Railroad was also in default on account of the sinking fund and interest, and has since failed to meet its interest on the substitution bonds and has been reorganized at a heavy loss to the holders.

The Nashville and Decatur road was also in default, and would have been sold out had not it succeeded in procuring parties to retire its debt under the acts of 1869-70, and would under these circum-
stances have brought probably not two-thirds of the 244
debt due to the State.

And this is true of nearly every so-called solvent road that paid its debt to the State, except the Nashville and Chattanooga, and Louisville and Nashville roads ; not a single road other than these would have been able to have made their annual interest and sinking fund payment, that I now know

245 of. Hence all would have gone into the hands of receivers and been sold out, or else run at a loss to the State. This fact, I think, was fully realized by a large number, if not all, the holders of Tennessee State bonds, who, so far as I know, without a single exception, urged that this policy of retiring the debts due the State from the railroads should be carried into effect.

In the case of the Memphis and Charleston railroad, Mr. Peter Geddes repeatedly urged me as its
246 president, to retire, or procure some one to retire the debt due to the State from that Company, and on one occasion he came to my office and made inquiry as to how I was getting along in the matter of retiring the debt of that Company to the State. I told him that the Company was ready to retire its debt as early as it could possibly procure means with which to do so; that it had made arrangements with some parties to buy and carry some of the bonds, with a view of either retiring its debts
247 on its own account, or else getting some of the parties to buy the lien from the State, who could give the Company more favorable terms of payment than the State could; that under such an arrangement, about three hundred thousand dollars of Tennessee bonds had been procured, and that as he was a holder of a large amount of such bonds, both for himself and Mr. George Smith, that to secure the needed amount, I would buy his bonds. He declined to sell his bonds, but insisted that I should
248 go forward and retire the debt at once, giving as his reason for urging me to retire the debt, that until that was done, I and my party could never be efficient co-workers in the restoration of the State's credit. The debt of that Company was purchased from the State by A. Iselin or A. Iselin & Co., thereby retiring the debt to the State in accordance with the wishes of Mr. Peter Geddes, (as fully ex-

pressed to me and as particularly urged by him on 249
the occasion to which I allude), and of every other bond-holder, so far as I know and believe, without a single exception.

I give it as my deliberate judgment, having perfect familiarity with the condition of nearly every ralroad in the State, that the State of Tennessee is from four to six millions of dollars better off than it would have been if the Retiring Acts and the Acts for the sale of the roads had not been passed.

260 x Q. How long have you known Mr. Iselin, 250
and what were the circumstances under which you made his acquaintance?

A. In March or April, 1870, I made application to the New York Guaranty and Indemnity Company to supply the money with which to retire the debt of the East Tennessee, Virginia and Georgia Railroad Company to the State, and the President of that company convened a meeting of the board of directors, in order that I might submit
the application and make a statement of the con- 251
dition of the roads, for the decision of the board.

Mr. Iselin was present at that meeting. It was in the early part of April, 1870, as I now remember. I saw him there for the first time in my life, so far as I know, but was not then presented to him.

The Guaranty and Indemnity Company declined to loan the money, whereupon it was procured from the Fourth National Bank.

Early in the succeeding month of May, Mr. 252
Odier, of firm of Lombard, Odier & Company of Geneva, Switzerland, arrived in America, and Mr. Iselin having heard my statement respecting the wish of our company to retire its debt to the State presented the subject to Mr. Odier, and asked an introduction to me through the President of the New York Guaranty and Indemnity Company,

253 which was granted, and about the 12th or 15th of May, I became for the first time personally acquainted with Mr. Iselin, when we took up the subject of negotiating for the bonds, which it was proposed to issue for the purpose of raising money to retire the debt to the State. And out of this transaction grew my acquaintance and subsequent operations with Mr. Iselin.

I herewith present the account of the Mobile & Ohio Railroad called for in the examination in
254 chief.

(Marked Complainant's Exhibit No. 8.—W. H. D. L., Spl. Ex'r.)

(Counsel for defendants object to the foregoing answer and Exhibit as incompetent and irrelevant in these cases.)

Adjourned to October 24th, 1879, at 1 P. M.

255 New York, October 24th, 1879, 1 P. M.

Present—Counsel as before.

R. T. Wilson resumes:

261 x Q. In your letter to Mr. Terry you say: "That so long as the railroads were indebted to the State the temptation to them to so influence legislation, as to cause a default in the payment of coupons in order to buy them up at a discount and
256 pay them over to the State." Did now mean to say that the railroad men had influenced legislation in this way?

A. I did not. I merely meant to say, that it offered a temptation to do so.

Nov. 12th, 1879.

And further deponent saith not.

R. T. WILSON,

Subscribed and sworn to before me, this 12th day of November, A. D. 1879. 257

WILLIAM H. DE LANCEY,
[L. S.] *Notary Public*,
Westchester County.

Acting in New York County under and by virtue of Chapter 807 of the Laws of 1873 of the State of New York.

258

Certificate.

UUITED STATES OF AMERICA,
Southern District of New York, } ss.:
State and County of New York,

I, WILLIAM H. DELANCEY, a Notary Public, in and for the State and County aforesaid, and duly commissioned and qualified under the laws of the United States to take depositions for use in the Circuit Courts of the United States, do hereby certify that the reason for taking the foregoing deposition is, and the fact is that the testimony of the said witness is material and necessary for the complainant in the cause in the caption of said deposition named, and that the said witness lives, and did live at the time of taking said deposition in the City and County of New York, the same being at a greater distance than one hundred miles from the City of Memphis, where the Court, at which it is expected the said cause will be tried, was appointed to be held, to-wit: more than five hundred miles therefrom. 259 260

I further certify that the said witness was examined and cross-examined by the counsel for the respective parties to the cause named in the caption hereto.

I further certify that on the 9th day of September, the 13th, 14th, 23d, 24th days of October and

261 the 12th day of November, A.D., 1879, I was attend-
ed at my office, No. 52 Broadway, in the City,
County and State of New York, in the Southern
District of New York aforesaid by Edward L.
Andrews, Esq., solicitor, and of counsel for the
complainants, W. Y. C. Humes, Esq., solicitor, and
of counsel for defendants, and by R. T. Wilson, the
witness, who was of sound mind and of lawful age,
and the witness was by me carefully examined and
cautioned and sworn to testify the truth, the whole
262 truth, and nothing but the truth, and the deposi-
tion was by me reduced to writing in the presence
of the witness and from his statements, and after
carefully reading the same to witness, he subscribed
the same in my presence. I have retained the said
deposition in my possession for the purposes of
annexing the several Exhibits, and of sealing up and
directing the same with this certificate of the reasons
aforesaid for taking the said deposition, with my
own hand, to the Court for which the same was
263 taken.

And I do further certify that I am not of counsel or attorney for either of the parties in said deposition and caption named, or in any way interested in the event of the said cause named in said caption.

In witness whereof, I have hereunto set
my hand and seal this 31st day of
December, in the year of our Lord,
one thousand eight hundred and
264 seventy-nine, and of the Independen-
dence of the United States the one
hundred and fourth.

WILLIAM H. DELANCEY,
[L. S.] *Notary Public*,
Westchester County.
Acting in New York County under and by virtue of Chapter 807 of the Laws of 1873 of the State of New York.

COMPLAINANT'S EXHIBIT No. 1. 265

W. H. D. L.,—Spl. Exr.

OPINION OF CHARLES TRACY, ESQ.

The Tennessee Statute of 1852, Ch. 151, embraced in its provisions the Mobile and Ohio Railroad Company (§ 10).

That statute fixed upon the road and property of the company a first lien in nature of a mortgage in favor of the State, to the amount of State bonds advanced to the company (§ 3, § 4); and it made it unlawful for the company to create any lien or incumbrance which should have priority over or come in conflict with the State's lien; and the State's lien or mortgage was declared to have priority over all other claims existing, or to exist, against the company (§ 4). 266

The 12th section of that act is as follows:

> "Be it enacted, that the State of Tennessee "expressly reserves the right to enact by the "Legislature thereof, hereafter, all such laws "as may be deemed necessary to protect the in-"terest of the State, and to secure the State "against loss, in consequence of the issuance "of bonds, under the provisions of this act; "but in such manner as not to impair the "vested rights of the stockholders of the com-"panies." 267

The company subsequently made two mortgages, or deeds of trust, the first of which expressly saves and reserves the rights and liens in favor of the State, and the second declares that it is subject to the lien of the first, and also that it should not interfere with the State's lien. 268

The act of 1869, c. 38, was passed in pursuance of the reserved power of legislation mentioned in sec-

269 tion 10 of the act of 1852. This act of 1869 provides for relieving the State from a part of its debts, by a scheme for retiring the State bonds, and transferring the State's first lien to new bonds made by the company, and certified by the comptroller, and which shall be a first lien on the road and property. The provisions of the act 1869 in this regard are clearly sanctioned by the act of 1852.

The bondholders under the first and second mortgages lose nothing by this subrogation of the hold-
270 ers of the new bonds to the prior lien of the State, and have not at law or in equity any right to dispute the priority of such new bonds.

The reservation of the act of 1852 is made in ample terms. It saves a right of enactment to protect the interest of the State, and to secure the State against loss by reason of issuing the bonds; and it constitutes the Legislature the judges of what enactments may be deemed necessary for such purposes. The Legislature having deemed it neces-
271 sary to pass the act of 1869 for the protection of this interest of the State, no question of its competency or validity is admissible.

Nor is there anything in the act of 1869 which does not lie clearly within the limits of the reserved power of legislation. It does not affect the first and second mortgages. It continues the lien of the State on the same property and to the same amount while it changes the payees or creditors to be protected by the lien. There is no satisfaction or ex-
272 tinguishment.

The sums to be paid to the State are not paid, but are made payable to the holders of the new bonds. The State ceases to be a creditor, and the new bondholders become creditors in its place. The company's obligation or debt, with the lien or charge for payment, continue to the new creditors.

The act of 1869, therefore, is clearly valid, and

the new bonds issued and certified as required by 273
it, have a first lien and a priority over the first and second mortgage bonds.

The preamble and resolutions adopted by the Board of Directors, May 25th, 1871, and the indenture executed by the company and Messrs. Duncan, Iselin and Wilson, dated July 1st, 1871, are in proper form for carrying the proposed arrangement into effect, and giving to the holders of the new bonds the benefit of a first lien on the company's property, through the parties named as 274
trustees.

(Signed) CHARLES TRACY,
50 Wall st., New York.

July 20, 1871.

COMPLAINANT'S EXHIBIT No. 2.

W. H. D. L.,—Spl. Ex'r.

275

Memorandum of an agreement made this second day of May, A. D. 1870, at the City of New York, between The East Tennessee, Virginia and Georgia Railroad Company and R. T. Wilson, parties of the first part, and The Fourth National Bank of the City of New York, party of the second part.

Whereas, The East Tennessee, Virginia and Georgia Railroad Company is desirous of effect- 276
ing the negotiation of its certain new or mortgage bonds issued or to be issued by it, in pursuance of authority duly given to it, which bonds upon the surrender to the State of Tennessee of its State bonds, in due payment of certain loans or aid heretofore given to the corporations, now duly consolidated into the aforesaid railroad company, are to

U. S.
Inter. Revenue
5 R. T. W. 5
5-2
Five Cents.
5 Certificate. 5

277 become a lien *pro rata* in amount and of equal
validity with the unretired part of
the State indebtedness upon the said
railroad, the whole of said indebtedness
being about three millions nine
hundred and fifteen thousand dollars
($3,915,000), and the said railroad
company is also desirous of providing any funds
which it may become necessary to employ in effecting
the surrender of the said State bonds, and the
278 substitution of its said railroad mortgage bonds
therefor under such authority.

And whereas, The Fourth National Bank has
consented upon the conditions hereinafter stated to
procure such negotiation of the said railroad mortgage
bonds, and to procure certain advances upon
the representation of R. T. Wilson, a director of
the said railroad company, that the said company
may lawfully make this agreement and upon his
individual promise to guaranty to the said bank the
279 prompt and full repayment by the said company of
all advances made to it.

Now, therefore, in consideration of the premises and of the mutual covenants hereof, it is agreed:

U. S.
5c. 5c.
R. T. W.
5-2.
Five Cents.
5. Certificate. 5.

First.—The said railroad company shall appoint
and does hereby appoint the said
Fourth National Bank its sole agent
to receive and surrender to the State
of Tennessee in pursuance of the authority
above recited, State bonds
280 to the amount of about three millions
nine hundred and fifteen thousand dollars
($3,915,000), and the said railroad company
will deposit with the said bank the whole issue of
their new or railroad mortgage bonds issued or to
be issued, as hereinbefore described, such appointment
to be irrevocable until the close of the transaction
contemplated hereby.

Second.—The said bank, as rapidly as the said 281
railroad bonds shall be fully and properly substituted for the said State bonds so surrendered, shall procure the negotiation and sale of the same as speedily as possible, at such prices as may be agreed upon by the said bank and railroad company. The said bank shall receive for its said services in securing such negotiation, a commission of two and one-half per cent. upon the par value of such bonds, except that when other parties shall sell any of the
said bonds, then on such sales the said bank shall 282
receive one and one-quarter per cent. commission, and the party so selling the bonds, one and one-quarter per cent. commission.

In all cases, the expense of all advertising and printing as required, shall be at the expense of the said railroad company.

U. S.
Inter. Revenue.
5c. 5c.
R. T. W.
5–2.
Five Cents.
5. Certificate. 5.

Third.—The said bank shall procure advances of funds to be made
to the said railroad company, to an 283
amount not exceeding what may be requiring to purchase three million nine hundred and fifteen thousand dollars ($3,915,000) of Tennessee State bonds; provided that the said company shall pledge as security for such advances, the said State bonds, or its before—described new mortgage railroad bonds when substituted for State bonds, and provided that such advances never need exceed fifty per centum of the par value of the bonds so
pledged. 284

The said bank shall be entitled to charge for all advances made to the said railroad company a commission equal to five per centum per annum on the amount thereof in addition to seven per centum interest, to be paid thereon by the said railroad company.

And such interest and commission shall be paid on 1st July, 1870, and quarterly thereafter.

385 The said company hereby authorizes the said bank to sell the said securities so to be pledged, and all substituted securities in case of non-payment of such advances at maturity, at public sale without notice, and to purchase the said securities at said sale.

U. S.
Inter. Revenue.
5c. 5c.
R. T. W.
5-2.
Five Cents.
5. 5.
Certificate.

Fourth.—The said bank shall from time to time
386 apply all the net proceeds of the aforesaid railroad bonds, as sold as above provided, to the repayment of the advances so as above made to the said railroad company, with interest and commissions so far as may be required for such purpose.

Fifth.—All advances so made and not sooner paid shall become due and payable on the first day of May, 1871. If on or before that time sufficient shall have been realized from the sale of the said
387 railroad bonds to repay all advances made, and all indebtedness to the said bank, then the said company may withdraw the balance of their bonds from the said bank.

If, however, not sufficient shall then have been realized to repay such advances, and all indebtedness to the said bank, then the said railroad company shall be bound to pay the balance against it at once, unless a satisfactory arrangement for the continuance of this or a
388 similar agreement is made. But in case no such agreement is made then the payment of such balance, if made, shall not entitle such company to the railroad bonds then unsold until it shall have paid to the said bank a commission of one and one-quarter per cent. upon an amount of such bonds at par, equal to the said balance against such Company.

U. S.
Inter. Revenue.
5c. 5c.
R.T.W.
5-2
Five Cents.
5 5
Certificate.

Sixth.—R. T. Wilson, in consideration that the 289
said Fourth National Bank enters into this agree-
ment at his request, and upon his aforesaid repre-
sentations, hereby guarantees to the said bank that
the said East Tennessee, Virginia and Georgia Rail-
road Company will promptly pay to the said bank
all its indebtedness arising under the
arrangement contemplated by this
agreement, and hereby waive all de-
fenses, if any, which he or the said
railroad company might have against 290
any such payment.

U. S.
Inter. Revenue.
5c. 5c.
R.T.W.
5–2
Five Cents.
5 5
Certificate.

In witness whereof the said corporations
parties hereto have caused these
presents to be executed by their
respective presidents, and their
respective corporate seals to be
hereunto affixed, and the said R.
T. Wilson has hereunto set his
hand and seal the day and year 291
first above written.

U. S.
Inter. Revenue.
5c. 5c.
R. T. W.
5–2
5 5
Certificate.

EAST TENN., VA. & GA. R. R. CO.,
By THOMAS H. CALLAWAY,
Pres't.

In the presence of
JOE CALLAWAY.
E. S. DELANY.

East Tennessee,
Virginia &Georgia
SEAL.
Railroad Co. 292

JAMES G. MITCHELL,
Sec. and Treas.

FOURTH NATIONAL BANK OF THE
CITY OF NEW YORK,
By P. C. CALHOUN, Pr.
R. T. WILSON.

293 The East Tennessee, Virginia and Georgia Railroad Company has fully paid and discharged all its liabilities to the Fourth National Bank of New York growing out of transactions made under the foregoing contract.

New York, April 17th, 1871.

P. C. CALHOUN, Pr.

STATE OF TENNESSEE, }
Bradley County. } ss:

294 On this 4th day of May, in the year 1870, before me, Edwin S. DeLany, a notary public, personally came Thos. H. Callaway, the President of the East Tennessee, Virginia and Georgia Railroad Company, of the town of Cleveland, in the State of Tennessee, with whom I am personally acquainted, who, being by me duly sworn, said that he resided in Cleveland, Bradley county, Tennessee; that he was the president of the said East Tennessee, Virginia and Georgia Railroad Company; that he knew the corporate seal of the said company; that the seal affixed to the within instrument was such corporate seal; that it was affixed by authority of the Board of Directors of said company, and that he signed his name thereto as such President by the like authority. 295

Witness my hand and official seal at Cleveland, Tennessee, date above written.

[SEAL.]

EDWIN S. DELANY,
Notary Public,
Bradley County,
Tennessee. 296

Endorsed:

Dated 2d May, 1870. The East Tennessee, Virginia and Georgia Railroad Company, R. T. Wilson, and The Fourth National Bank of the city of New York. Agreement.

COMPLAINANT'S EXHIBIT NO. 3. 297

W. H. D. L., *Special Examiner.*

R. T. WILSON & CO.,

BANKERS AND COMMISSION MERCHANTS,

44 Broad Street.

R. T. WILSON,
J. M. JOHNSON,
B. F. WILSON, 298
W. P. ORME,
L. L. CALLAWAY,

NEW YORK, April 15th, 1870.

Captain Joseph Jaques, V. P. E. Tenn., Va. and Ga., R. R. Co.

DEAR SIR:—We propose the following:

1st.—To furnish bonds and coupons of the State of Tennessee to you with which to pay your debt 299 to the State, to the extent of three millions of dollars, at fifty-five cents on the dollar in cash. You are to give us the option for three months, of furnishing the balance of the debt you owe the State, at the same price, accrued interest to be counted at the same price.

2nd. We will undertake as financial agents of the road, to negociate for the necessary money to carry out this contract and to sell the bonds to reimburse the same, employing such assistance at the expense 300 of the road as may in our discretion be necessary, leaving our compensation to be fixed by the road after the transaction is concluded.

3rd. If we are continued as the financial agents of the company and no providential interference presents or interferes, then we guarantee that your debt of say $3,915,000 to the extent retired shall be

301 done at not exceeding the rate of three millions of your company bonds for the whole.

Yours truly,

R. T. WILSON & CO.

I certify that the above is a true copy.

S. S. PALMER.

CLEVELAND, TENN., April 21, 1870.

MESSRS. R. T. WILSON & CO.,
302 44 Broad Street, New York.

Gentlemen:

Your offer to sell bonds to this road, made through its Vice President, Capt. Joseph Jaques, bearing date of the 15th instant, is received, and I have telegraphed our acceptance of your proposition, which acceptance I now confirm.

You will now proceed to negotiate for the necessary money to carry out your proposition, and you are hereby authorized to hypothecate the State
303 bonds for money so raised; also, to pledge this company's credit for the same, and whenever the extent of your ability to deliver State bonds justifies your moving in the matter of surrendering State bonds of the State of Tennessee in manner as the acts of February 25, 1869, and acts amendatory thereto provides, then you are hereby authorized to surrender the same to the Comptroller of the State of Tennessee or to his agent in New York.

With a view to this action on your part this com-
304 pany hereby authorizes you to use of its mortgage bonds to the extent which you may surrender State bonds, and when you surrender State bonds you will cause the certification of the Comptroller of the State of Tennessee to be affixed on our mortgage or company bonds, in manner as the law provides for, and when so certified you are authorized and directed to hypothecate them against money borrowed until

such time as you can sell them at such prices as 305
this company may from time to time authorize.

THE EAST TENNNESSEE, VIRGINIA & GEO. R.R. CO.,
By THOS. H. CALLOWAY,
Pres't.

April 20, 1870.

THOS. H. CALLAWAY, *Pres't*,
Cleveland, Tenn.

The proposition won't be made before to-morrow, 306
if then; meantime I want to know if you accept on condition that you can control the price of your bonds for one year.

R. T. WILSON,
F. Agent.

April 20, 1870.

THOS. H. CALLAWAY, *Pres't*,
Cleveland, Tenn.

307
You know we can't issue only as we surrender, and therefore could not make any of the bonds available as a means on which to raise money. They will insist on having control of all until enough are sold to pay advances, mainly, as they say, to avoid competition in selling. I believe this can be satisfactorily arranged either with the present or other parties. Also, that we can control the price of our bonds for one year.

R. T. WILSON,
F. Agent. 308

CLEVELAND, TENN., April 20th, 1870.

R. T. WILSON,
44 Broad street.

I am willing to accept your proposition, provided the whole issue of bonds are not to be tied up so that

309 in case we may need money for any other purpose, that we will have something to raise it on, and we must have the right to price our bonds.

THOMAS H. CALLOWAY,
Pres't.

CLEVELAND, TENN., April 21, 1870.

R. T. WILSON,
44 Broad street.

310 I accept your proposition.

THOS. H. CALLOWAY,
Pres't.

NEW YORK, May 25, 1870.

CAPT. J. JAQUES,
V. P. East Tenn. and Va. R.R., Knoxville, Tenn.

Dear Sir :—Haven't received the promised letter after seeing Mr. Calloway, but we suppose that you have agreed to issue a new bond, and hence we are 311 having one prepared to be ready by the 25th instant.

We now give notice that we will sell your road under our option, enough more bonds than we have heretofore agreed to supply to pay off your State debt with.

Yours truly,
(Signed) R. T. WILSON & CO.

312

COMPLAINANT'S EXHIBIT No. 4.—W. H. D. L., *Spl. Exr.*

NEW YORK, September 30, 1870.

BOND RETIRING ACCOUNT. No. 1.

E. T., Va. and Ga. R. R., in account current with R. T. WILSON & Co.

DR. 1870.		AMOUNT.	DAYS.	INTEREST.
July 1,	To Revenue Stamps on 3,000,000 bonds at 1.25 per 1,000	3,150	91	95 55
Sep. 30,	" Interest at 12 % on 33,933.33 from 30 Sep. to 31 Oct., in order to bring int. acct. to 30 Sep., say 31 days........			350 64
30,	" Balance int. acc.			23,202 30
30,	" " down to credit in cash 30 Sept., 1870..............	1,139,750 55		
		1,142,900 55		23,648 49

E. & O. E.

1870.		AMOUNT.	DAYS.	CR. INTEREST
July 1,	By 500,000 bonds, 82½ less com. 2½	400,000	91	12,133 40
25,	100,000 "	80,000	67	1,786 66
25,	accrued interest..........	566 67	67	12 66
26,	150,000..........................	120,000	66	2,640
26,	accrued interest..........	729 20	66	16 04
27,	150,000..........................	120,000	65	2,600
27,	accrued interest..........	758 30	65	16 42
28,	100,000........	80,000	64	1,706 66
28,	accrued interest..........	525	64	11 20
Aug. 3,	150,000..........................	120,000	58	2,320
3,	accrued interest..........	962 50	58	18 62
Sep. 2,	17,000..........................	13,600	28	126 94
2,	accrued interest...... ...	204 94	28	1 91
24,	133,000..........................	106,400	6	212 80
24,	accrued interest..........	2,172 33	6	4 34
27,	50,000	40,000	3	40
27,	accrued interest..........	845 98	3	84
Oct. 31,	40,000............	32,000		
31,	accrued interest..........	933 33		
Sep. 30,	Interest at 12 %................	23,202 30		
		1,142,900 55		23,648 49
Sep. 30,	By balance down................	1,139,750 55		

316 315 314 313

Copy.

NEW YORK, December 31, 1870.

BOND RETIRING ACCOUNT No. 2.

East Tenn., Va. and Ga. R. R. Co., in account current with R. T. WILSON & Co.

DR.		AMOUNT.	INTEREST.
1870.			
Dec. 31,	To balance interest acct......		34,952 36
31,	" down to your credit	1,174,702 91	
		1,174,702 91	34,952 36

E. & O. E.

1870.		AMOUNT.	DAYS.	CR. INTEREST.
Sept. 30,	By balance rendered.....	1,139,750 55	92	34,952 36
Dec. 31,	Interest 12 % per annum...............	34,952 36		
		1,174,702 91		34,952 36
Dec. 31,	By balance down........	1,174,702 91		

New York, March 31st, 1871.

BOND RETIRING ACCOUNT No. 3.

East Tenn., Va. and Ga R. R., in account current with R. T. Wilson & Co.

Dr. DATE.		AMOUNT.	DAYS.	INTEREST.	Cr. DATE.		AMOUNT.	DAYS.	INT'ST.
1871.					1871.				
Mar. 31,	To balance interest acct....			568 78	Feb. 10,	By 20,000 bonds 82½, less com. 2½.	16,000	49	261 34
31,	" down to your Cr. transferr'd to general acct. of E. Tenn., Va. and Ga. R. R. Co..	41,025 73			10,	accrued interest.	155 56	49	2 55
					14,	20,000 " 2½.	16,000	45	240 00
					14,	accrued interest.	171 11	45	2 56
					Mar. 8,	10,000 " 2½.	8,000	23	61 33
					8,	accrued interest.	130 28	23	1 00
					31,	Interest, 12 %..................	568 78		
		41,025 73		568 78			41,025 73		568 78

E. &. O. E.

324

323

322

321

Statement of the retirement of the debt due the State of Tennessee by the East Tennessee, Virginia and Georgia Railroad Company, effected by R. T. Wilson & Co., New York.

1870.			
July	1,	To total indebtedness cancelled...........	$4,117,761 10
			$4,117,761 10
April	15,	To 3,117,750 Tenn. new at 55 per cent...	$1,714,762 50
May	25,	" 919,090 52 " " ...	505,499 79
July	1,	" Interest at 1 per cent. per month from 15th April to date on $1,714,762 50, say 76 days.	43,440 74
"		" Interest at 1 per cent. per month from 25th April to date on $505,499 79, say 36 days.......................	6,606 00
			$2,270,309 03

1870.			
July	1,	By January, 1870, interest included in the cancelled debt, same paid and in the general account of the road as rendered	$80,909 48
		" Amount paid in currency to balance and charged in general account..........	11 10
		" Balance to be paid in Tenn. Bonds at 55 per cent., as below...	4,036,840 52
			$4,117,761 10
April	15,	By Interest on $2,860,320 85 at 6 per cent. the date of first contract to deliver bonds, say $35,754 at 55 per cent....	$19,664 70
July	1,	" Interest at 1 per cent. per month on same	498 18
May	25,	" Interest on $843,202.56 at 6 per cent. the date of second contract to deliver bonds, say $4,919 at 55 per cent.....	2,705 45
July	1,	" Interest at 1 per cent. per month on same	32 46
April	15,	" 29,000 old bonds taken in this account at 55 per cent......................	15,950 00
"		" 9 per cent. interest on same at 55 per cent....	1,435 50
"		" 9 coupons sent us at 55 per cent.......	148 50
July	1,	" Interest on same at 1 per cent per month	444 18
"		" Interest at 5 per cent on average of your general account from 15 April.......	1,714 64
"		" Balance charged to your general account as cash this day...........	2,227,715 42
			$2,270,309 03

Statement of East Tennessee, Va. & Ga. R. R. 329

7 per cent. Bonds sold.

DATE.	QUANTITY.	PRICE.	AMOUNT.	
1871.	M.			
Mar. 25,	200,000	82½ and Int.	168,266 67	
31,	10	"	8,425 00	
Apr. 3,	10	"	8,428 89	
8,	10	"	8,438 61	
10,	65	"	54,876 25	
11,	65	"	54,888 89	
15,	75	"	63,391 67	
18,	75	"	63,435 42	330
19,	100	"	84,600 00	
20,	50	"	42,309 72	
22,	300	"	253,975 00	
25,	90	"	76,245 00	
"	10	"	8,471 67	
Dec. 5,	20	93½ and Int.	18,700 00	
1872.				
Jany. 13,	3	90	2,700 00	
15,	10	90 "	9,027 22	
19,	100	89 "	89,000 00	
25,	20	90 "	18,092 05	
Feby. 8,	5	90 "	4,536 44	
12,	10	90 "	9,080 55	
21,	65	90 "	59,135 75	
Apl. 26,	100	90 "	92,236 11	331
Dec. 11,	17	89 "	15,662 19	
12,	16	89 "	14,744 00	
1873.				
Jany. 8,	10	" "	8,913 43	
17,	5	" "	4,465 34	
27,	6	" "	5,369 92	
Feby. 5,	2	" "	1,793 42	
7,	2	" "	1,794 19	
8,	10	" "	8,972 87	
11,	5	" "	4,489 31	
Mar. 1,	10	" "	9,013 15	
14,	5	" "	4,519 04	
29,	7	" "	6,346 80	
Apr. 4,	12	" "	10,894 03	
May 28,	5	90 "	4,640 96	332
29,	2	90 "	1,856 77	
31,	5	89 "	4,593 83	
June 7,	5	" "	4,600 55	
July 11,	8	" "	7,135 35	
16,	5	" "	4,464 38	
23,	10	90	9,042 19	
1877.				
Apr. 21,	3	92	2,760 00	
May 18,	1	92	920 00	
July 17,	1	91	910 00	
Aug. 1,	20	90	18,000 00	
9,	1	91	910 00	

333	Oct. 22,	12	90	"	11,060 05
	Nov. 3,	8	90	"	7,391 78
	14,	8	90	"	7,408 66
	16,	20	90	"	18,529 32
	19,	33	90	"	30,592 36
					1,430,054 80
	Less 2½ per cent. com. charged on— 1,393 bonds..................				$34,825 00
	1,647,000.....................				$1,395,229 80
	1,390,000.....................			82½	1,139,750 55
	50,000........			"	41,025 73
	3,087,000				$2,576,006 08
334	Conditional bonus received on first sales..................				4,500 00
					$2,580,506 08

Av'ge per bond.........................$835 92 7-10

COMPLAINANT'S EXHIBIT No 5.

335 W. H. D. L., Spl. Ex'r.

New York, May 13th, 1870.

Mess. A. Iselin & Co. :

Gentlemen :

I now beg to confirm in writing the verbal agreement had with you this day, which I understand to be as follows :

336 1. The East Tennessee, Virginia and Georgia Railroad Company is to pay off the debt due the State of Tennessee, for the loan of the bonds of said State in manner as the law provides, by surrendering State bonds to the Comptroller or his his agent.

2. The said railroad company is to issue a mortgage bond, which is to take the place of the lien

held by the State, for an amount not exceeding 337
three millions five hundred thousand dollars (3,500,000) principal and interest of said bonds to be payable in currency, and to be in denominations of one thousand dollars bearing seven per cent. per annum interest, with coupons therefor attached, payable semi-annually, and running to maturity within twenty, twenty-five or thirty years, as the road may elect.

3. You are to purchase of the said railroad 338
bonds, and by the acceptance of this do contract for and purchase five hundred thousand dollars at eighty-two and a half cents on the dollar, and accrued interest. This purchase secures to you the option of purchasing fifteen hundred thousand more of said bonds at the same price, which option is to run until the thirty-first day of next July.

4. The five hundred thousand dollars which you
have purchased to be delivered to you by the road 339
so soon as the road can prepare them and get the State debt paid, which will probably be by the first day of July next, or soon thereafter, but not later than the thirty-first day of that month, and when delivered they are to be paid for and in like manner, in case of further purchases which you may make on your option.

5. Of the issue of said railroad bonds the road
reserves one million dollars and hereby agrees not 340
to sell them without your consent before the expiration of six months and of the remaining amount, say five hundred thousand dollars, R. T. Wilson & Co., of this city, and such parties as they may associate with them, have the option to purchase the same, at the same price and for the same time which is given you on your option, with the fur-

341 ther understanding that the bonds so to be purchased by R. T. Wilson & Co. are to be offered by you, for sale in Europe, during the time your option runs, in conjunction with your bonds, upon such terms and conditions between you and them as may be agreed upon, it being understood that the terms between you and R. T. Wilson & Co. do not apply to or effect the road.

6. This contract not to be binding on you until you examine the road, which you are to do next week,
342 and then report whether you accept or decline it.

Yours truly,

R. T. WILSON,
for the East Tenn., Virginia
& Ga. R. R. Co.

A. Iselin & Co.,
P. O. Box 910, New York.

343

New York, May 13th, 1870.

R. T. Wilson, Esq., Financial Agent,
East Tennessee, Virginia & Georgia R. R. Co.

Dear Sir: We are in receipt of your favor of today, which is in conformity with our verbal agreement according to which we bind ourselves to take ($500,000), five hundred thousand dollars in bonds
344 of the East Tennessee, Virginia & Georgia R. R. at 82½, eighty-two and a half cents on the dollar and interest, on condition that you give us the option of taking fifteen hundred thousand ($1,500,000), more of said bonds at same price.

These bonds to be part of an issue of $3,500,000, three million five hundred thousand dollars, secured by a first mortgage on the railroad, the Company

having first satisfied the State lien according to 345
law.

This contract not to be binding until we shall have examined the road and declared our intention of accepting or declining.

Your truly,
A. ISELIN & CO.

Endorsed,

"A. Iselin & Co.,
Accepted Contract 346
May 13th, 1870."

A. Iselin & Co.,
P. O. Box 910, New York.

New York, May 13th, 1870.

Messrs. R. T. Wilson & Co.,
Present.

Gentlemen: We are in receipt of your favor of to-
day, in accordance with which we are to offer for 347
sale in connection with the bonds of the East Tennessee, Virginia & Georgia R. R. Co., which we have contracted, or for which we have an option, $500,000, five hundred thousand dollars of said bonds, on which you have an option on the following terms:

1st. The $500,000 which we are to purchase of the Company are to be first sold, then sales to be made for our joint account, pro rata to our respective in-
terests and at such prices as we may fix above what 348
the bonds cost you with interest and charges.

Our charge is to be ½%, one half per cent. for drawing exchange against bonds sold.

The bankers in Europe are to charge 1½%, one and half per cent. commission for selling bonds.

Yours truly,
A. Iselin & Co.

349 "Copy"

New York, May 27th, 1870.

Messrs. Adrian Iselin & Co.

Gentlemen: Referring to the letter of R. T. Wilson, Financial Agent of the East Tennesse, Virginia & Georgia Railroad Company, addressed to you under date of the 13th instant, we beg to say that we have forwarded a copy of it to Knoxville, Tennessee, for confirmation by said road, and expect 350 its return in due course of mail, with the official signature of the proper officers thereto affixed.

In the meantime we hereby guarantee the performance or acceptance by the road of the contract made through its Financial Agent previously alluded to.

Yours truly,

(Signed) R. T. WILSON & CO.

A. Iselin & Co.,
351 P. O. Box 910, New York.

New York, May 27th, 1870.

R. T. Wilson, Esq., Agent, &c.,
East Tennesssee, Virginia & Georgia R. R. Co.

Dear Sir: Having examined your road as con-352 templated in our letter, May 13th, we hereby express our satisfaction therewith and agree to take the bonds as therein provided.

Yours, respectfully,

A. ISELIN & CO.

A. Iselin & Co.,
P. O. Box 910, New York.

New York, May 28th, 1870. 353

R. T. Wilson, Esq., Agent, &c.,
East Tennessee, Virginia & Georgia R. R.:

Dear Sir: We omitted in our letter of yesterday to mention that our contract of May 13th had been modified to the extent that $500,000, five hundred thousand dollars of the first mortgage bonds of the East Tennessee, Virginia & Georgia R. R. are to be reserved and not issued until the claim of the United States Government against the company 354 shall have been settled or paid.

By confirming this you will oblige.

Yours respectfully,
A. ISELIN & CO.

A. Iselin & Co.,
P. O. Box 910, New York.

New York, July 28th, 1870.

R. T. Wilson, Esq., Agent,
East Tennessee, Va. & Ga. R. R. Co.: 355

Dear Sir: We hereby propose to you to buy of the $1,500,000, fifteen hundred thousand dollars, East Tennessee, Va. & Ga. R. R. Co. first mortgage bonds remaining to be sold—

$150,000 three days after the acceptance of this our proposition, at 82½ and interest;

$150,000 within 60 days, at 82½ and interest, on condition that you give us the option to purchase 356

$900,000 of the remainder at same price for six months from date, should war in Europe continue for that period, or should peace have been made before six months, for sixty days after the declaration of peace.

Yours respectfully,
A. ISELIN & CO.

357 "Copy." NEW YORK, Aug. 2, 1870.

Messrs. A. ISELIN & Co.:

Gentlemen: Yours of the 28th ultimo, proposing to purchase three hundred thousand dollars of the bonds of this company (1st mortgage 7 %), is received.

I hereby accept the proposition therein contained, and give the option on nine hundred thousand dollars more of the bonds for the time, as stated by you. 358

Yours truly,

THE EAST TENNESSEE, VA. & GA. R. R. CO.

By R. T. WILSON,

Financial Agent.

A. ISELIN & Co.,

P. O. Box 910, New York.

NEW YORK, 17th March, 1871.

359 MESS. R. T. WILSON & Co.,

Financial Agents of East Tennessee and Virginia R. R.:

Gentlemen: We confirm the verbal arrangement made with you in relation to the unsold bonds of the East Tennessee, and Virginia R. R. Co. We agree to purchase from you on the 2d May, or sooner, two hundred and fifty thousand dollars of bonds ($250,000), including the $50,000 already purchased at 82½, and interest, on condition of your 360 giving us the option for four months from date of eight hundred and fifty thousand dollars more at the same price. Should we call for the bonds before the 2d May you are to pay us the difference of interest the bonds bear and 12% per annum, the rate at which our loans to you have been made up to that date.

We will also loan you ourselves, or arrange with the Gallatin National Bank to loan you, three hundred thousand dollars, with East Tennessee and Virginia R. R. bonds as security, for four months from date or to the expiration of our option at 12% up to the 2d May and 10% after that date, this to be in addition to the amount of the bonds to be purchased by us. 361

Please inform us whether you agree to this arrangement.

Yours very truly, 362

A. ISELIN A CO.

Endorsed—

"Proposition of Mess. A. Iselin & Co. Rel
"ative to the Purchase of the Last
"Bonds."

363

"Copy." New York, March 17, 1871.

Mess. A. Iselin & Co.:

Gentlemen: We own your letter of even date, and in reply beg to say that we accept the proposition it contains.

We would remark that our understanding of that part of your letter which refers to your offer of a loan of $300,000, is that the road can return the whole am't or any part of it, at any time before maturity, and receive credit at the same rate of interest and commission which the loan bears. 364

Yours truly,
(Signed.) R. T. WILSON & CO.,
Financial Agents of the East Tenn.,
Va. & Ga. R. R. Co.

365 COMPLAINANT'S EXHIBIT NO. 6.

W. H. D. L., Spl. Exr.

NEW YORK, , 187 .

Memorandum from A. Iselin & Co.,
48 Wall street.

Oct. 18/1870. $75,00. bot. out Interest R. T. Wilson & Co.

E. T. V. G. R. R.

366

COMPLAINANT'S EXHIBIT No. 7.

W. H. D. L., Spl. Ex'r.

JUNE 11th, 1878.

367 MR. JOHN T. TERRY,

Care of Messrs. E. D. MORGAN & Co.

Dear Sir : Respecting the proposed action of holders of Tennessee bonds against Tennessee railroads about which you spoke to me, I have to say : That I have conferred with some of the parties largely interested in Tennessee railroads who confirm my views as stated to you, viz : That the rail-
368 roads as such would not contribute anything whatever towards a fund to induce a settlement of the State debt on account of apprehended danger to them through the action of Tennessee bondholders who may seek to hold them for Tennessee bond liabilities under the various Acts of the Legislature of that State granting aid to railroads, &c. From the stand point of the roads' view of that

question they have nothing whatever to fear, and I 369
apprehend it will be quite impossible to convince
any of them of their error, if it be one, which, by the
way, I scarcely believe to be possible—until they
are convinced by the highest tribunal of the country.

But while this is unquestionably the position of
the railroad men of Tennessee, yet I am happy to
say truthfully that I do not know a single railroad
man in or out of the State connected with Tennessee roads who is not now using and who has 370
not for the past three years used all their influence
in the direction of the payment of the entire debt,
if deemed to be practicable, or as an alternative of
this to procure the best possible settlement that
could be obtained for the bondholders. As a class
they have intelligence enough to know the withering effects upon the general prosperity of the State
of repudiation, and the State's prosperity and
welfare is their prosperity and welfare, for you as
a commercial man well know that of all business 371
that you can conceive of the railroad traffic business
is more directly and quickly effected and shows the
effects of prosperity or the reverse quicker and
more directly than any other line of business.

I am well aware that the charge you made yesterday to the effect that the railroads have for previous to the past three years stood in the way of the
settlement of the Tennessee debt, because it has been
to their interest to get the price of bonds down
so that they could buy them and pay off their debts 372
to the State, has been a current one; and while
it has been as to nearly every railroad man
in the State, with perhaps one or two unimportant exceptions, a slander upon them, yet it
has had just enough of plausibility about it to
mislead and give it currency. When I drew the
original act of Feb. 25, 1869, for I was its author,

373 although it was so changed that it would scarcely be called the same, this act was prompted and supported not alone by the railroad men of the State, but largely by the best men all over the State, as being the only measure by which either the State or railroads could be saved. It was apparent to all men of even moderate sagacity that the railroads could not possibly meet the interest on their indebtedness, and pay the sinking fund, to say nothing of meeting the early maturing bonds. The penalty
374 for a failure to do this was the appointment of a Receiver by the Governor. Experience in this State-receivership business, clearly demonstrated that instead of being a remedy, it became the greatest possible evil. State Receivers administered the roads so badly that in almost every single instance the State not only failed to collect any revenue, but was actually mulcted for a large sum to pay expenses of operating the road. In addition to this great evil, so long as the railroads were indebted
375 to the State, the temptation for them to so influence legislation as to cause a default in the payment of coupons in, order that they might buy them up at a discount and pay them over to the State, was so great that every sincere friend of the State felt great solicitude for its result. But while this was so manifest, and while it was so manifestly for the interest of the State to have the Act of Feb. 25, '69, passed and the R. road debt to the State paid off, that it would appear that every wayfaring man,
376 though a fool, should have seen it as he ran. Yet such was not the case, but on the contrary many good men and many very bad men opposed the passage of the bill, and the result was a bitter contest. The good men feared it was a measure to aid railroad men to speculate in Tennessee bonds, or at least some of them said so, while others said it would be wholly impracticable in operation, be-

cause of the inability of the railroads, on account 377
of their broken down and exhausted condition and
credit to avail of its provisions, while many of the
bad men feared it might do just what it has done,
viz: enable the roads to pay their debts and the
State theirs, get them beyond the reach of State receiverships, with all their opportunities for plunder
and place, and thus prevent them and their friends
from keeping the roads in a shape out of which they
hoped to reap rewards one way or another. To defeat the success of the measure they have used 378
every argument that could avail. When they saw
the roads making rapid progress in relieving their
debts they used the charge that they were conspiring to put down the price of bonds, while at one
time there may have been less support from railroad men in the direction of tax levies and payment
of interest by the State than there should have
been, yet there has been, with perhaps one or two
exceptions, nothing of this kind for the last three
or four years, but on the contrary nearly all rail- 379
road men have been zealous supporters of the credit of the State. I, for one, can say conscientiously
that I have at all times taken the broad view that
neither State nor railroads would amount to anything unless a proper settlement with the creditors
of the State was effected in one way or another that
would be permanent, and to support this, or rather
to prepare the way to make such a settlement probable and lasting, I not only had the measure or Act
of Feb. 25, 1869, under which railroads were au- 380
thorized to retire their indebtedness, introduced
and passed, but I also suggested and aided in passing the bill for the sale of the class of roads known
as insolvent roads, with a view of bringing about a
complete separation of Railroads and State, partly,
and, I may say, largely, in order to place the State
in a position where it would be to the interest

381 of all who might be in the position to have
a voice in her legislative councils, to aid and support an honorable settlement with her creditors,
which I have looked upon as being the first and
necessary foundation stone upon which to build all
prosperity, either railroad, State or individual. To
show how faithfully I have preserved this line of
policy, I may be excused for stating that nearly
fifteen millions of dollars of the railroad debt has
been retired by my house, and its associates, in which
382 I have taken the lead. Now, without boasting my
friendship for the State, who can say as much, who
in the last twenty-five years has contributed so
largely as I have done towards making it possible
for Tennessee creditors to even get anything like
their just rights, and remember while I have done
this I have never been directly or indirectly responsible for the creation of one dollar of indebtedness for any railroad for any other purpose which
has not been paid in full with interest, and yet I am
383 usually classed as one of the railroad men in Tennessee of more or less influence in the affairs of the
State. Now this much for the past relations of the
railroad men, and to the State and back to the question of the rights of Tennessee bondholders against
railroads, if they have any, which I most emphatically deny, but allow me to attract your
attention to the fact that in the case of the
Mobile and Ohio Railroad in the United States Circuit Court at Memphis, and this subject has been
384 before that tribunal fully argued by able counsel,
and decided by Judge Trigg, without even expressing a doubt, to the effect that the lien of the State
upon railroads for aid granted to them under the
laws of Tennessee granting the aid, was taken solely
for the State and was personal to it alone, and not
in any manner or shape for the benefit of the
holders of Tennessee bonds which had been issued

to railroads and by them sold to the public. This is precisely what Judge Trigg decided, and it is what all railroad men have been advised by the best legal counsel they could obtain, and is in perfect harmony with the legislative construction and practice of the State; but as the adverse party to this decision have appealed to the United States Supreme Court at Washington, where the case is now pending, and where the decision of the Circuit Court at Memphis will be reviewed, I submit that long before any bondholder could now get his case before that tribunal, it will have been tried just as fairly as it will ever be possible for him to have it tried, and I think even more so, because I don't believe that, taken alone, there is enough in his claim, if made as the prime cause of the action to induce any court to entertain it, while in the Mobile and Ohio case he has the advantage of getting his cause before the highest tribunal of the land, not directly, but collaterally in just as good a shape to test its merits as if it were the prime cause of the action.

Now, these being the facts in the case, while so stated at the outset no railroad man that I know will give one dollar on account of the supposed claim of bondholders, or rather, to get the State to settle the its debts in order to avoid that question, yet all will cheerfully co-operate with the State creditors in any and all practicable means by which *it may be hoped* to reach a settlement with the State upon terms satisfactory to its creditors, and a few of the railroad men are using their best endeavors to get an early hearing of the Mobile and Ohio case at Washington, among whom I am one; as the plaintiff in one branch of that case—which, as previously stated, will just as effectually settle the case as to the right of Tennessee bondholders against railroads, as it would be possible for the bondholders to do, by all the suits

389 they could bring, and do it too from one to three years sooner than they could get their case before that Court and be heard.

Bearing on the Mobile and Ohio case, I beg to hand you herewith the brief of Messrs. Humes & Poston and Joseph B. Heiskel, and invite your attention to the argument beginning on page 12 of the same.

I will at all times take great pleasure in co-operating with the creditors of the State in their efforts
390 to procure an honorable settlement. I feel that my position is such as to make it possible for me to render them some assistance.

I remain, with much respect,

Yours truly,

R. T. WILSON.

391

COMPLAINANT'S EXHIBIT No. 8.

W. H. D. L., Spl. Exr.

Statement Mobile & Ohio Railroad with the State of Tennessee to 1st January, 1872.

To amount of principal..............	$1,684,800	
" Int. to 1st Jany., 1872............	100,446	
		$1,785,246 00
" Cost of Tenn. Bonds, with interest and commission to 1st January, 1872	1,142,003 56	
392 " Disct. on 1,685,000 Co. Bonds at 17½ per cent.	294,875	1,436,878 56
		$348,367 44

RESPONDENT'S EXHIBIT No. 1. 393

W. H. D. L.,—Spl. Exr.

FINANCIAL.

EAST TENNESSEE, VIRGINIA AND GEORGIA RAILROAD

FIRST MORTGAGE 7 PER CENT. BONDS, REDEEMABLE 1900.

Interest payable 1st of January and 1st of July in the City of New York.

394 The mortgage is for $3,500,000, on a road 270 miles long, which has been in successful operation for many years. The lien is about $13,000 per mile, which makes it, with few exceptions, the smallest issued on any road in the United States. It was created for the sole purpose of paying off the debt due the State of Tennessee, amounting to $4,117,761.10.

An examination into this security will prove it to be one of the best ever offered in this market.

For terms and further particulars apply to

Gallatin National Bank,
No. 36 Wall Street,
Agent for the sale of the bonds.

395

This advertisement appeared in Commercial Advertiser, daily Tribune, World, Times, Journal of Commerce, Evening Post, and weekly Financial Chronicle, of New York City.

December 31, 1870.

FINANCIAL.

SEVEN PER CENT FIRST MORTGAGE BONDS OF THE NASHVILLE AND DECATUR RAILROAD. 396

The mortgage is for $2,100,000, or only $17,500 per mile on an old and completed road, showing an established business, from local traffic, mainly more than sufficient to pay its interest as it becomes due, with prospects of greatly enlarged receipts from new connections which are now in progress.

This mortgage was created for the sole purpose of paying a debt due

397 to the State of Tennessee, on terms which would reduce the liability of the road about $600,000.

Of the bonds issued under said mortgage $200,000 are held in escrow to abide settlement of a claim of the United States; $300,000 have been purchased by the parties in interest, and the balance of $1,600,000 are offered for sale on favorable terms; the security, in the judgment of the undersigned, being such as to entitle them to perfect confidence.

DREXEL, WINTHROP & CO.,
18 Wall Street.

NEW YORK GUARANTY AND INDEMNITY CO.,
52 Broadway and Exchange Court.

398 This advertisement appeared in daily Evening Post, World, Commercial Advertiser, Bulletin, Times, Tribune, Observer, Christian Advocate, Independent, and Financial Chronicle, of New York City, and Union of Brooklyn.

---

399 RESPONDENTS' EXHIBIT NO 2.

W. H. D. L., Spl. Ex'r.

(Copy.) NASHVILLE, 2d Nov., 1861.

The Sinking Fund Commissioners have this day cancelled fourteen straight six per cent. coupon bonds of the State of Tennessee, each for one thousand dollars, belonging to the Sinking Fund of the East Tenn. & Geo. Railroad Company, and placed the amount, fourteen thousand dollars, to the credit of the said East Tenn. & Geo. R.R. Co.

400 The above fourteen bonds thus cancelled were put into the Sinking Fund of the East Tenn. & Geo. R.R. Co. in place of twelve East Tenn. & Va. R.R. Co.'s endorsed bonds and two Nashville & Chattanooga R.R.Co. endorsed bonds previously purchased for ac. of East Tenn. &Ga. R.R. Co.'s Sinking Fund.

G. C. TORBETT, } Sinking Fund
J. T. DUNLAPP, Comp't } Commissioners.

No. 14. NASHVILLE, November 20, 1861. 401

Received from the East Tennessee & Georgia Railroad Co. Nine Tennessee State six per cent. Bonds, each for one thousand dollars, and numbered as follows: Nos. 4333, 4334, 5851, 9584, 9086, 7113, 10,415, 4332, 2068.

These Bonds are received on account of the payments due by said Company as Sinking Fund, when next called for, and are now cancelled under act of 1859-60, ch. 93.

ISHAM G. HARRIS, Governor. 402
9 Bonds. J. T. DUNLAP, Comptroller.
G. C. TORBETT, Pres. Bank of Tenn.
Com. of Sinking Fund.

CHATTANOOGA, June 4, 1862.

Received from the East Tenn. & Ga. Railroad Co. one hundred Tennessee six per cent. Bonds each for one thousand dollars.

These bonds are received on account of the payment due by said Company as Sinking Fund, and 403
are now cancelled under Act 1859-60, chap. 93.

100 Bonds.

ISHAM G. HARRIS, Governor.
G. C. TORBETT, Pres. Bank of Tenn.

CHATTANOOGA, June 4, 1862.

Received from the East Tenn. & Ga. R.R. Co. eleven endorsed bonds, each for one thousand dollars and numbered as follows: 42, 43, 59, 79, 49, 45,
50, 100, 51, 46 and 27. 404

These Bonds are received on account of the payment due by said Company as Sinking Fund, and after cancellation returned to said Company under act of 1859-60, chap. 93, sec. 2.

11 Bonds.

ISHAM G. HARRIS, Governor.
G. C. TORBETT, Pres. Bank of Tenn.

I, J. G. W. Blackburn, Comptroller, certify the above is a true copy of the original on file in my office.

{Compt. seal.} In witness whereof I have hereunto set my seal of office this 1st day of Feb. 1868.

G. W. BLACKBURN,
Comptroller.

RESPONDENT'S EXHIBIT No. 3.—W. H. D. L., Spl. Exr.

STATE LOAN.

DR.			CR.		
1861.			1860.		
June 29,	State Loan Dr. to Sinking Fund : For 2 State Bonds cancelled, see James Plunkett Letter, July 19, '61, filed with Sinking Fund Papers	$2,000	June 30,	By balance	$1,162,000
Nov. 5,	State Loan Dr. to Sinking Fund : For 14 State Bonds, 1 M each cancelled and receipted for	14,000			
1862.					
Apr. 30,	State Loan to State Bonds : Commissioners of Sinking Fund receipt for 9 Bonds, Nos. 4,333, 4,334, 5,851, 9,584, 9,086, 7,113, 10,415, 4,332, 2,068, dated Nov. 20, '61	9,000			
June 4,	Sundries to Bonds purchased : Endorsed bonds, 11 bonds of this Company, cancelled, Nos. 27, 42, 43, 59, 79, 49, 45, 50, 100, 51, 46. See Sinking Fund Commissioners' receipt dated Chattanooga, June 4, 1862				
	State Loan for 100 State 6 per cents., $1,000 each, cancelled, see Sinking Fund Commissioner's receipt as above	100,000			
	To Balance	1,037,000			
		$1,162,000			$1,162,000
			June 30,	By balance	$1,037,000

I certify that the above is a true transcript from the Ledger and Journal of the East Tennessee & Georgia Railroad Company.

Knoxville, Tenn., September 10th, 1879.

O. H. P. ROGAN, *Auditor*,
E. Tenn., Va. & Ga. R. R. Co.

412 411 410 409

413 RESPONDENT'S EXHIBIT NO. 4.
W. H. D. L., Sp'l. Ex'r.

(Copy.) COMPTROLLER'S OFFICE OF THE STATE OF TENNESSEE.
Agency in New York.

June 10, 1870.

Received from the East Tennessee, Virginia & Georgia Railroad Company, the following described three hundred and fifty (350) bonds of the State of
414 Tennessee, bearing interest at the rate of six per cent. per annum, in part payment of the debt which the State of Tennessee holds against said railroad company (description of bonds omitted), say three hundred and fifty (350) bonds of the State of Tennessee, as above described, for one thousand dollars each, making three hundred and fifty thousand dollars $350,000.

P. C. CALHOUN,
Pr't. agent of the Comptroller of the State of Tennessee, specially authorized for that purpose.

415

Rev. Stamp,
4 cents.
Cancelled.

(Copy.) COMPTROLLER'S OFFICE,
Nashville, Tenn., Jan'y. 25, 1870.

By authority of an Act, passed Feb. 25, 1869, entitled "An Act to liquidate the State debt, contracted in aid of railroad companies in the State of
416 Tennessee," I hereby constitute and appoint the Fourth National Bank, of the City of New York, my agent to perform the duties of the comptroller of the Treasury of the State of Tennessee, as designated, and provided in and by Section 4 and 5 of the Act aforesaid.

G. W. BLACKBURN,
Compt.

[SEAL.]

I hereby certify that the above is a true copy of the original document. 417

D. G. Fanning,
Notary Public.

(Copy.) Comptroller's Office,
Nashville, Tenn., June 3, 1870.

P. C. Calhoun, Esq.,
New York,

Dear Sir :—I will be pleased to have you continue to act as my agent on the same terms and conditions as you have for my worthy predecessor. I will also wish to continue business with the Fourth National Bank. Will write you fully on to-morrow. 418

Yours very truly,
Ed. R. PENNEBAKER,
[seal.] *Co'pt.*

I certify that the above is a true copy of the original letter. 419

D. G. Fanning,
Notary Public.

(Copy.) Comptroller's Office of the State of Tennessee.
Agency in New York.

Received June 10, 11 and 14, 1870, from the East Tennessee, Virginia & Georgia Railroad Company, in July, 1869, January and July, 1870, coupons of thirty dollars each of bonds of the State of Tennessee, delivered to me at these dates above mentioned, on account of and in part payment of the debt which the State of Tennessee holds against said railroad company, the sum of two hundred and eighty-two thousand seven hundred and fifty dollars ($282,750); say 3,834 coupons of July, 1870, 420

421 attached to bonds, and 5,591 coupons of July, 1869, and January, 1870, detached from bonds.

Rev. Stamp.
P. C. C.
June 14, '70.
5 cents.

P. C. CALHOUN, Prt. Agent
Comptroller of State of Tenn.

(Copy.) COMPTROLLER'S OFFICE OF THE STATE OF TENNESSE,
422
Agency in New York,
June 14, 1870.

Received from the East Tennessee, Virginia &
Georgia Railroad Company eight hundred and
forty-two (842) bonds of the State of Tennessee for
one thousand dollars each, bearing interest at the
rate of six per cent. per annum ; say eight hundred
and forty-two thousand dollars, as per annexed
schedule (schedule omitted), in part payment of the
423 debt which the State of Tennessee holds against
said railroad company.

P. C. C.
Rev. Stamp.
June 14, '70.
5 cents.

P. C. CALHOUN, Prt. Agent,
Comptroller State of Tenn.

(Copy) COMPTROLLER'S OFFICE OF THE STATE OF TENNESSEE,
424
Agency in New York.
June 11, 1870,

Received from the East Tennessee, Virginia & Georgia Railroad Company, Forty-three (43) bonds of the State of Tennessee, for one thousand dollars each, bearing interest at the rate of six per cent. per annum, say forty-three thousand dollars, as per annexed schedule (schedule omitted) in part pay-

ment of the debt which the State of Tennessee holds 425
against said Railroad Company.

Rev. Stamp.
P. C. C.
June 11, 1870.
5 cents.

P. C. CALHOUN, Prt. Agent,
Comptroller of State of Tenn.

(Copy) COMPTROLLER'S OFFICE OF THE
STATE OF TENNESSEE,
Agency in New York.
June 11, 1870.

426 Received from the East Tennessee, Virginia and Georgia Railroad Company, Twenty-six hundred (2600) bonds of the State of Tennessee for one thousand dollars each, bearing interest at the rate of six per cent. per annum, say twenty-six hundred thousand dollars, as per annexed schedule (schedule omitted), in part payment of the debt which the State of Tennessee holds against said Railroad Company.

Rev. Stamp.
5 cents.
Cancelled.

P. C. CALHOUN, Pr't. Agent. 427
Comptroller of State of Tenn.

428

Deposition of Jno. C. Brown.

UNITED STATES CIRCUIT COURT,

WESTERN DISTRICT OF TENNESSEE.

Calvin Amory Stevens *et al.* on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the Memphis & Charleston Railroad Company

vs.

The Memphis & Charleston Railroad Company *et al.*

Deposition of John C. Brown, witness for defendants, taken in Nashville, Tennessee, April 23d, 1880, before L. W. Humes, Special Examiner, duly appointed under an order of the United States Circuit-Court, Western District of Tennessee.

Taken pursuant to agreement.

Present—W. Y. C. Humes, for Defendants.

Jno. C. Brown, being first duly sworn, deposed as follows:

In answer to oral interrogatories, he states:

My name is Jno. C. Brown; I have lived in the State of Tennessee all my life, and am now fifty-one years of age; I am a lawyer by profession and practice, and my residence is Pulaski, Giles County, Tennessee. From early manhood to the commencement of the war, and then from the close of it up to 1871, I devoted myself almost exclusively to the practice of my profession. I was elected President of the convention that revised the constitution in 1870, and presided over its deliberations. I was the first Governor elected under the new State constitution of 1870, and was inaugurated in 1871, and re-elected and inaugurated in 1873 for a second term. During the years 1869 and 1870, I was thoroughly acquainted with the sentiment of the people of the State. The acts for the sale of the insolvent and defaulting railroads originated in and were produced by a prevalent sentiment throughout the State that such measures would subserve the best interests of the State in retiring a part of its bonded debt, and to the same extent benefit the holders of her bonds. The acts of February 25, 1869, and January 20th, 1870, enabling the solvent roads to retire their debts to the State, originated in and were produced by the same sentiment, and by a sentiment that it would benefit the roads in their depressed condition by enabling them to use the State's first lien on their property to purchase up and pay the State debt in her bonds.

I was intimately acquainted with Dempsey Weaver during the years 1869 and 1870, and my administration as Governor. He was the President of the Third National Bank, and was then and had been for years a leading financial man residing at Nashville. I had frequent conversations with him during the years 1869 and 1870. He was the agent and correspondent of a very large number of the bondholders of Tennessee; he favored and approved for them the acts above referred to, as they would reduce the State debt and thereby increase her capacity to pay them. The railroads also favored it as measures of relief to them in their broken down condition.

The constitutional convention of 1870 passed no measure discriminating between any State bonds, nor has the Legislature, except as to a few issued to the Mineral Home R. R. Co. During my two terms as Governor, I received an immense number of letters from holders of State bonds from New York, Philadelphia, Baltimore and other places, stating that now the State had reduced her debt, and asking when she was going to resume payment of her interest. The bonded debt of the State had been reduced by the sale of the insolvent roads, and by some of the solvent roads having retired their debts under the acts of 1869 and 1870. I did not preserve their correspondence, but I know the bondholders were clamorous during the whole of my administration for the payment of their interest, and stated the retiring the bonded debt under the acts of 1869 and 1870 as one of the reasons why the State should be the more able to pay their interest. Not one of them ever intimated a right to go upon the railroads, or that this legislation was a violation of their rights. In my second gubernatorial canvass I advocated the funding of the unpaid coupons, and my opponents agreed with me as to this measure. I know Mr. Weaver, as agent of the bondholders, warmly and cordially approved this measure, and many others did also. Immediately after my inauguration in 1873 I sent into the Legislature a message advocating the funding act of 1873, and in that message was given an accurate statement in figures of the amount of State bonds that had been retired by the sale of delinquent roads and settlements with solvent roads under the acts of 1869 and 1870, accompanied also with the Comptroller's report, showing the same facts in detail. Mr. Weaver and other correspondents of foreign bondholders called at the capitol and got a vast number of these printed messages and forwarded them to the foreign bondholders. I felt it my duty to ascertain thoroughly and accurately whether the bondholders approved or disapproved this funding measure. They approved it almost universally if not entirely so; I never heard of a dissent. After the passage of the measure nearly all of the holders funded their overdue coupons, and registered their old bonds under this act. The sale of the delinquent roads and the purchase of State bands by the solvent roads to settle their debts was publish all over the country, as well as the sale of the substitution bonds of the companies. Never from 1869 to the close of my administration in 1875, did I hear of State bondholders claiming that the State bonds issued to railroads or their coupons were due to them from the companies to which issued or claiming the lien. No such lien was ever set up during my official connection with the State, not even after the panic and financial depression had made it evident that it would be with the utmost difficulty the State could pay her interest, if at all.

I believe at the time of the passage of the acts of 1869 and 1870, and still believe, that the making of the settlements therein provided tended in a great degree to place the State in a position to resume payment of interest upon its entire debt; and the act of 1873, under which the debt was funded and registered, was made likewise, under the confident expectation that the interest would be punctually paid. And this undoubtedly would have been the result but for the subsequent panic and paralysis of the industries of the country. In order to force the several railroads that had not settled under the acts of 1869 and 1870 to do so, I sent either a message or the form of a resolution to the Legislature, requiring the roads to settle in a given time, or, in default, withdrawing the privilege.

And further saith not.

JNO. C. BROWN.

Subscribed and sworn to before me this, April 23, 1880.

L. W. Humes,
Special Examiner.

I, L. W. Humes, Special Examiner, duly appointed under an order of the United States Circuit Court, Western District of Tennessee, to take the testimony on behalf of the defendants in the above entitled suit, in the State of Tennessee, do hereby certify that the foregoing deposition was taken before me as stated in the caption, and reduced to writing, and subscribed to by the witness in my presence.

Witness my hand, this April 23, 1880.

L. W. HUMES,
Special Examiner.

1

Deposition of Maney Bell.

UNITED STATES CIRCUIT COURT,

DISTRICT OF TENNESSEE.

Calvin Amory Stevens *et al.*, on
behalf of the holders of Internal
Improvement Bonds of Tennessee, 2
issued to the
Railroad Company,

versus

The
Railroad Company *et al.*

Deposition of Maney Bell, witness for defendants, 3
taken in Nashville, Tennessee, March 15th, 1880,
before L. W. Humes, Special Examiner, duly appointed under an order of the United States Circuit Court, Western District of Tennessee.

Taken pursuant to agreement,

Present—W. Y. C. Humes, *for Defendants.* 4

Maney Bell, being first duly sworn, deposed as follows:

My name is Maney Bell; am 30 years of age; reside at present in Nashville; am now and have been

5 since October, 1873, except a period of seventeen months, ten months from 1st of May, 1874, to 1st March, 1875, and seven months from March, 1877, to December, 1877, a clerk in the office of the Secretary of State for Tennessee; have in the office of Secretary ofState books containing receipts for bonds of the State of Tennessee issued to turnpike companies, banks, railroad companies, agricultural bureau, and for the purchase of the Hermitage, and construction of the State Capitol, and also for bonds issued un-
6 der acts to fund the past due indebtedness of the State given by the agents appointed to receive bonds of the State issued for above purposes respectively; these books contain receipts dated from 1836 to 1877; copies of receipt for each of above purposes are made a part of this deposition and are marked respectively Exhibits A., B., C., D., E., F., G., and H., I., J., K., L., and M.; said receipts show number of bonds received, numbers of bonds, date and series, and purpose for which the bonds are to be issued;
7 this was the rule, but there were exceptions in which they failed to specify the series; for every bond issued by the State as shown by these books, whether for State, turnpike, railroad, or other purpose, receipts were given by the agents appointed to receive them, except I find no receipts for special issues to Bank of Tennessee under act of 1832; the bonds issued for all purposes by the State after passage of the Internal Improvement Act of February 11th, 1852, were issued of
8 the current series, except the bonds issued to the Capitol Commissioners to be used only in the construction of the State Capitol, and two special issues of bonds (40 bonds), issued to turnpike companies. All bonds issued by the State prior to 1852, with the exception of the Series White "A" issued under Act of 1838, were special issues—in all, 3,500 bonds, special issues, about 500 of

which are still outstanding. Each series of bonds 9
was distinguished by letter or color, or both, and by words on the face of the bond, showing under what act or acts it was issued, its number and date of maturity. There were several separate series of bonds issued under the Internal Improvement Act of Feb. 11th, 1852, and acts amendatory thereto, viz.: Series B white, C white, B green, and Series Green Bonds not lettered. I give order in which the different series were issued under Internal Improvement Act and its amendments, with number of 10
bonds and date of maturity.

Series "B" white,	Nos.	1	to	7,958,	due in	1892
" "	"	7,909	"	11,806,	"	1898
" "C" "	"	1	"	1,878,	"	1898
" No lettter green	"	1	"	8,470,	"	1892
" " "	"	8,471	"	10,000,	"	1900
" "B" "	"	1	"	5,203,	"	1900

Bonds of a particular series, issued under Act of 1851-2 and its amendments, were not confined to 11
a particular railroad company or other internal improvement, but were issued alike for every purpose as application was made under the Acts. For example, of the Series "B" white, issued under said Act of Feb. 11th, 1852, 48 were issued for purchase of the Hermitage, 30 bonds to the Agricultural Bureau, and others to a Turnpike Company. Nearly every railroad received bonds of two or more series. The rule of issuing bonds, as shown by the receipts, was to issue to each proper appli- 12
cant bonds whose number began with the number next after number of bond last issued, and of the current series. As to the question: "When was the fact first made known to the public of the numbers of the different series of bonds, and to what parties or corporations issued?" I answer that I find a printed statement in the form of a circular, issued

13 by Pennebaker, Comptroller, under date of July
25, 1870, setting forth the facts, but do not know
that it was distributed generally ; the fact first appears
in the reports of the Comptroller in a report
to the General Assembly of 1875, by Jno. C. Burch,
Comptroller. The receipt books show that all
bonds of the State, for whatever purpose issued,
and of whatever series, were numbered consecutively
from No. 1 to end of series, and that receipts
were required and given for same from 1838 to 1877.

14 The New Series Funding Bonds, Green F, issued
under Act of 1873, were issued for past due bonds
and coupons of the State, and when $1,000 in past
due coupons were presented, no matter from what
series of Bonds, or for what purpose or to what
Company or Companies, the Bonds from which they
were clipped were issued a new bond of the Funding
Bond series, was issued in lieu. But as the
greater part of the Funding Bond series was issued
in lots of two up, it would be impossible to say that
15 any particular coupon was taken up by any particular
bond of the lot. As an illustration, I give this
instance, taken from funding books of 1873 : $12,990
in past due coupons (being coupons cut from 44
State bonds), and $10 in currency, making $13,000,
was funded into New Series Funding Bonds, Nos.
455 to 467, date of transaction August 22d, 1873.
These coupon were clipped from Bonds for following
purposes :

16

Series.	Originally issued to.	No. Coupons.		No. Bonds.	Am't.	17
White B.,	Memphis & Charleston R.R.,	10	Coupons each,	from 5 Bonds,	$1,500.	
"	East Tenn. & Geo.,	10	"	" 1 "	300	
"	Memphis & Ohio,	10	"	" 5 "	1,500	
"	McMinville & Manchester,	10	"	" 6 "	1,800	
"	Mississippi & Tenn.,	10	"	" 1 "	300	
"	East Tenn. & Va.,	10	"	" 3 "	900	
"	Memphis & Charleston,	10	"	" 1 "	300	
"	Mississippi Cent'l & Tenn.,	10	"	" 1 "	300	
"	Mobile & Ohio,	10	"	" 1 "	300	
"	Louisville & Nashville,	10	"	" 1 "	300	
"	Memphis, Cl'ksvlle & Louisville	10	"	" 3 "	900	
"	Nashville & Northwestern,	10	"	" 2 "	600	
White D.,	Funding Bonds 1866,	10	"	" 8 "	2,400	
Green ——	Memphis, Clk'sville & Lou'ville,	3	"	" 1 "	90	
"	" "	10	"	" 1 "	300	18
	Memphis & Ohio,	10	"	" 1 "	300	
	East Tenn. & Va.,	10	"	" 1 "	300	
	Cin., Cum. Gap & Charleston,	10	"	" 2 "	600	
	Cash,				10	
					$13,000	

Therefore could only say that any particular coupon in above lot was taken up by New Series Funding Bonds, Nos. 455 and 467, and further saith not.

MANEY BELL.

Subscribed and sworn to before me, March 6th, 1880. } 19

L. W. HUMES,
Special Examiner.

EXHIBIT "A."

Nashville, Murfreesboro & Shelbyville Turnpike Company. 20

Capital Stock, $200,000.

WHEREAS, the undersigned are of opinion that two-thirds of the capital stock of the "Nashville, Murfreesboro & Shelbyville Turnpike Company have been subscribed by individuals and other corporations, and are well secured. Now, therefore,

21 we do hereby agree that the Governor subscribe, on
behalf of the State, for the remaining third of said
capital stock (being $66,666⅔), agreeable to the provision of an act, entitled "an act to encourage internal improvement in the State," passed February
19th, 1836.

In testimony whereof, we have hereunto set our hands, this 23d day of Jan'y, 1836.

N. CANNON.

22 Luke Lea,
Secretary of State.
Daniel Graham,
Comptroller.
Miller Francis,
Treasurer.

Bonds issued 25th July, 1836.

23

EXHIBIT B.

Hiwassee Railroad Company.

Nashville, November 3, 1838.

$97,000.

Received of Newton Cannon, Governor of Ten-
24 nessee, 97 State bonds, from No. 2 to 98, dated the
1st day of November, 1838, issed for the benefit of
the Hiwassee Railroad Company.

W. NICHOL,
President of the Bank of Tennessee.

EXHIBIT C. 25

Bonds for State Capitol.

NASHVILLE, April 1st, 1848.

$50,000.

Received of Neil S. Brown, Governor of the State of Tennessee, two hundred State bonds, letter A, from number one to number two hundred inclusive, of these and all intermediate numbers of the denomination of two hundred and fifty dollars each, 26 bearing date the 1st day of April, 1848, which bonds are issued under the authority and the description as provided for in the 3d Section of an Act passed by the General Assembly of the State of Tennessee on the 24th January, 1848, entitled "an Act to continue the construction of the State Capital."

JNO. M. BASS,

President of the Board of Commission to Superintend the erection of the State House.

27

EXHIBIT D.

NASHVILLE, May 15th, 1850.

Received of William Trousdale, Governor of the State of Tennessee, twenty-one State bonds of one thousand dollars each, $21,000, being No. 765 to No. 785 inclusive, letter A, dated 13th May, 1850, issued for the benefit of the East Tennessee and Georgia Railroad Company. 28

WM. LEDBETTER,

President.

29 EXHIBIT E.

Received of Andrew Johnson, Governor of the
State of Tennessee, forty-eight coupon bonds of the
State of Tennessee, dated the first of January, 1856,
and falling due first of January, 1890, first coupon
falling due first of July, 1856, issued in pursuance
of an Act entitled "an Act to purchase the Hermitage
passed February 11th, 1866, commencing at
3,538 to 3,585, both of these numbers inclusive, on
30 the issuance of the above bond the coupon falling
due first of July, 1856, on the following bonds
was cut off 3,538-9-40-41-42-43-44-45-46 and destroyed.

March 29th, 1856.

A. JACKSON.

---

31 EXHIBIT F.

Received of Andrew Johnson, Governor of Tennessee,
thirty coupon bonds of said State for one
thousand dollars each, from No. 4,442 to 4,471, both
these numbers inclusive, bearing interest six per
cent., first coupon falling due 1st January, 1857,
bonds falling due 1st January, 1892, principle payable
in New York; said bonds are issued in pursuance
of the sixth Section of an Act passed 18th
32 February, 1856, entitled "an Act to amend an Act
entitled an Act to establish a State Agricultural
Bureau, &c., and for the purpose of purchasing
permanent fair grounds and for other purposes."

July 19, 1856.

S. R. COCKRILL.
J. SHELBY.
W. G. HARDING.

EXHIBIT G. 33

COMPTROLLER'S OFFICE,

NASHVILLE, TENN., April 2, 1866.

A. Crawford has this day deposited in my office one thousand and twenty-six past due coupons of the bonds of the State of Tennessee for thirty dollars each, and two hundred and twenty dollars in cash, amounting to thirty-one thousand dollars, for which he is entitled to six per cent. coupon bonds of the State, under the Act passed 23d November, 1865. 34

S. W. HATCHETT,

Comptroller.

STATE OF TENNESSEE,

Executive Department,

NASHVILLE, Tenn., April 2, 1866.

$31,000.

No. 169 to No. 199. 35

Received of W. G. Brownlow, Governor of the State of Tennessee, thirty-one of the six per cent. coupon bonds of the State for one thousand dollars each, dated the 1st day of January, 1866, payable January 1st, 1891, and numbered from 169 to 199, inclusive. First coupons due 1st July, 1866. Said bonds are issued under the Act of November 23d, 1865, in lieu of that amount of past due coupons off the bonds of the State which are filed with Comptroller of the Treasury. 36

Given under my hand this 2d day of April, 1866.

A. CRAWFORD.

37 **EXHIBIT H.**

Bonds Issued to Comptroller.

NASHVILLE, Tennessee, February, 1869.

No. 1,701 to 2,200.

Received this day of William G. Brownlow, Governor of the State of Tennessee, five hundred of the six per cent. coupon bonds of said State for one thousand dollars each, principal and interest payable in the City of New York. The bonds fall due
38 the first of January, 1900. The first coupons fall due the 1st of July, 1870. Said bonds are of the Green issue, denoted by the letter C, and numbered from 1,701 to 2,200, both numbers inclusive, and are issued to the Comptroller under the Act of September 5, 1868, entitled "An Act to regulate the State finances."

G. W. BLACKBURN,
Comp't.

39

EXHIBIT I

To Maney Bell's Deposition.

BONDS ISSUED TO COMPTROLLER.

Nos. 160 to 522.

NASHVILLE, Tenn., Sept. 21st, 1868.

Received, this day, of W. G. Brownlow, Gov-
40 ernor of Tennessee, three hundred and sixty-three bonds of said State, for one thousand dollars each, principal and interest payable in New York. The bonds fall due the 1st day of January, 1900, and the first coupons fall due the 1st day of January, 1869. Said bonds are issued to the Comptroller for the renewing of the bonds of the State that fell due the 7th day of May, 1868, under the Act of

Sept. 5th, 1868, entitled "An Act to provide for the renewing of the Bonds of the State," etc. Said bonds of the green issue, letter C, and numbered from 160 to 522, both numbers inclusive. 41

G. W. BLACKBURN,
Comptl.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by the Comptroller of the State for State bonds, series C, from No. 160 to 522 inclusive, the original of which is now of record at my office. 42

[Seal.] In testimony whereof I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department, in the city of Nashville, this 18th day of March, A. D. 1880.

43

CHAS. N. GIBBS,
Secretary of State.

EXHIBIT J

To Maney Bell's Deposition.

Bonds Issued to Comptroller.

No. 523 to 1,000. 44

Nashville, Tenn., Oct. 16, 1868.

Received, this day, of W. G. Brownlow, Governor of the State of Tennessee, four hundred and seventy-eight (478) of the bonds of said State, for one thousand dollars each, payable in New York, 1st day of January, 1900. The first coupons falling

45 due July 1st, 1869. Said bonds are of the green issue, of series C. and numbered from 523 to 1,000 inclusive. Said bonds are issued to the Comptroller for the renewing of the bonds of the State that fall due the 7th of May, 1868, under the Act of Sept. 5th, 1868, entitled "An Act to provide for the renewing of the bonds of the State," &c.

G. W. BLACKBURN,
Compt.

46 I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by the Comptroller of State for State bonds, series C, from No. 523 to 1,000 inclusive, the original of which is now of record at my office.

[Seal.] In testimony whereof I have hereunto subscribed my official signature, and, by the order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department, 47 in the city of Nashville, this 18th day of March, A. D. 1880.

CHAS. N. GIBBS,
Secretary of State.

EXHIBIT K

48 *To Maney Bell's Deposition.*

Bonds Issued to Comptroller.

No. 1001 to 1400.

Nashville, Tenn., September 21st, 1868.

Received of W. G. Brownlow, Governor of the State of Tennessee, four hundred of the six per cent. coupon bonds of said State, for one thousand dollars each, principal and interest payable in New York—The bonds on the 1st day of January, 1900; said bonds are of the Green issue of the series C, and numbered from 1001 to 1400, both numbers inclusive. Said bonds are issued to the Comptroller of the State, under the act passed Sept. 5th, 1868, entitled "an act to provide for the renewing of the bonds of the State, &c.," to enable said officer to negotiate a loan for the purpose of discharging the liabilities of the State.

G. W. BLACKBURN,
Compt.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by the Comptroller of the State for State bonds, series C, from No. 1001 to 1400 inclusive, the original of which is now of record at my office. In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 18th day of March, A. D. 1880.

CHAS. N. GIBBS,
(SEAL.) *Sec'y of State.*

53 **EXHIBIT L**

To Maney Bell's Deposition.

BONDS ISSUED TO COMPTROLLER.

No. 1401 to 1700.

NASHVILLE, TENN., Oct. 9, 1868.

Received of W. G. Brownlow, Governor of the State of Tennessee, three hundred of the six per cent. coupon bonds of said State, for one thousand dollars each, principal and interest payable in New
54 York, the principal on the 1st day of January, 1900, and the first coupons on the 1st day of January, 1869. Said bonds are of the Green issue and of the series——, and are numbered from 1401 to 1700, both numbers inclusive, and are issued to the Comptroller of the State under the act of Sept. 5th, 1868, entitled an act to regulate the finances of the State.

G. W. BLACKBURN,
Compt.

55 I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by the Comptroller of the State for State bonds, from No. 1401 to 1700 inclusive, the original of which is now of record at my office. In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, the 18th day of March, A. D. 1880.

56 CHAS. N. GIBBS,
Sec'y of State.

EXHIBIT M 57

To Maney Bell's Deposition.

BONDS ISSUED TO THE COMPTROLLER.

No. 1701 to 2200.

NASHVILLE, TENN., Feb'y, 1869.

Received this day of William G. Brownlow, Governor of the State of Tennessee, five hundred of the six per cent. coupon bonds of said State, for one thousand dollars each, principal and interest payable in the City of New York. The bonds fall due 58
the first day of January, 1900; the first coupons fall due the 1st of July, 1870. Said bonds are of the Green issue, denoted by the letter C, and numbered from 1701 to 2200, both numbers inclusive, and are issued to the Comptroller under the act of September 5, 1868, entitled "an act to regulate the State finances."

G. W. BLACKBURN,
Compt.

59

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by the Comptroller of the State for State bonds, series C, from No. 1701 to 2200 inclusive, the original of which is now of record at my office. In testimony whereof, I have hereunto subscribed my official signature, and by order of the Governor, affixed the Great Seal of the State of Tennessee at the Department, in the City of Nashville, this 18th day of March, A. D. 1880. 60

CHAS. N. GIBBS,
(SEAL.) *Sect'y of State.*

Deposition of S. R. Cruse. 1

UNITED STATES CIRCUIT COURT,

DISTRICT OF TENNESSEE.

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the
Railroad Company, 2

versus

The
Railroad Company *et al.*

Deposition of S. R. Cruse, witness for defendants, taken in Memphis, Tennessee, March 20th,
1880, before L. W. Humes, Special Examiner, duly 3
appointed under an order of the United States Circuit Court, Western District of Tennessee, taken pursuant to agreement.

Present, W. Y. C. Humes, for defendants.

S. R. Cruse, being first duly sworn, deposed as follows:

4 My name is S. R. Cruse; age, years; I live in Memphis, Tennessee; I am Secretary and Treasurer of the Memphis & Charleston Railroad Company, and have been about years; I personally know that the Memphis & Charleston Railroad Company

5 has been in the exclusive and actual adverse possession of the entire track and road-bed of said railroad, from the City of Memphis to the western boundary of the State of Mississippi, and of the branch from Moscow to Somerville, and of the depots and depot grounds of said railroad in Tennessee, from Memphis to the Mississippi line, and of all the property of, belonging to and appurtenant to said railroad in the State of Tennessee, and has been holding the same and every part thereof ad-
6 versely to any and all claims of the holders of the bonds of the State of Tennessee for more than seven years continuously immediately before the 1st day of January, 1879, under deeds in fee-simple as to the realty and judgments of condemnation as to the right of way.

And further saith not.

S. R. CRUSE.

Subscribed and sworn to
before me, this March
7 20th, 1880.

L. W. HUMES,
Special Examiner.

8

1

Deposition of John S. Claybrooke.

Middle District of Tennessee:

Be it remembered, that on the 23d day of September, 1879, before me, as Examiner appointed by the Circuit Court of the United States for said district, at my office, in the City of Nashville, Tennessee, was produced and came before me John S. Claybrooke, witness on behalf of the defendants, to 2 depose in civil causes depending in the Circuit Court of the United States for the Eastern District of Tennessee, wherein C. A. Stevens is complainant, and the Cincinnati, Cumberland Gap & Charleston R. R. Co., *et al.*, are defendants; same, complainant, and the Knoxville & Kentucky R. R. Co., *et al.*, are defendants; and the same, complainant, and the East Tennessee & Ga. R. R. Co. are defendants (3 cases).

And the said witness, being of lawful age and sound mind, and being by me first duly cautioned and sworn, deposed as follows. Said deposition 3 was taken by consent of counsel for the complainants and the defendants, and in their presence, and by me reduced to writing in their presence, and in the presence of the witness.

Said JOHN S. CLAYBROOKE, being sworn, deposes as follows:

I was president of the Tennessee & Alabama Railroad from 1852 to 1857, and then from 1859 to 1866; during the first period of my presidency, in June or 4 July, 1854, my company received by me from the State of Tennessee 300 bonds of the State, as a loan

5 to the company, under the Act of February 11, 1852, and the amendments thereto, each bond for $1,000, with coupons for the semi-annual interest attached thereto.

These bonds were sold by an agent of the company in New York, under my instructions, and were sold at par, and the proceeds were used in strict accordance with the requirements of the Statute.

I sold some of the bonds issued to my company
6 by the State to Mr. Carter, and also to the Bank of Tennessee, at par. I never instructed or represented to the agent who sold these bonds in New York that there was any lien on the property of the railroad company in favor of the holders of the bonds, but I instructed him to sell them, and the bonds I also sold. I sold them as straight Tennessee bonds. I hereto attach my report of 1855 to the stockholders of my company of the financial operations of 1854 as "Exhibit A" to this, my deposition, and
7 adopt its statements as true.

I am acquainted with the methods of making the semi-annual interest payments on the amount of bonds loaned to us by the State.

We paid in money into the Treasury of the State or the Bank of Tennessee the amount of interest due from us to the State, and we never were required or attempted to adopt any system whereby to secure the applications of these payments to the coupons attached to the bonds loaned to our com-
8 pany.

But whenever we retained bonds issued to us by the State beyond the time when the coupons fell due, we paid this over-due interest by clipping off the coupons and returning them to the State. These were the only instances that we ever attempted to pay the identical coupons of the bonds issued to our company.

I know that we did pay our sinking fund before the war, and we paid it in other bonds than those issued to us, and we never attempted to pay in the identical bonds issued to us by the State; there was no such requirement. We kept a description of the bonds which we paid into the sinking fund, but we did not keep the numbers of the bonds issued to us. We never adopted any system to classify or identify the bonds issued to us by the State for any purpose. 9

During the time I was president, although we did not pay our interest during the war, no holder of the bonds issued to us ever presented an over-due coupon on any of such bonds to me, or any other agent of the company, and demanded payment of the same. 10

On *cross-examination*, the witness testified:

That the receipt he gave did contain the numbers of the bonds issued to him, a copy of which is hereto attached and marked as "Exhibit B." 11

I live near Triune, Williamson County. I am not a stockholder in the Decatur Railroad Company. I am not a director of the road, but was a director up to 1870, or until it was leased to the Louisville & Nashville Railroad Co.

I never made any payments of interest on the State bonds myself. They were made by the treasurer, Frank Hardeman. They were paid into the Bank of Tennessee is my recollection. I expect that the treasurer's books are in the hands of Seay. 12

Whenever the treasurer of our company notified me that the interest was about due I raised the money. Sometimes had to borrow it.

Of all the bonds issued by the State to the Tennessee & Alabama Railroad Company, I sold myself the following amounts: I sold about twenty thousand dollars of said bonds to the Bank of Ten-

13 nessee, at Nashville, and about twenty-five thousand
dollars of said bonds to Daniel F. Carter, a citizen
and resident of Nashville, Tenn. These are all of
the said bonds I sold myself. These were the only
sale of said bonds made in Tennessee that I know
of. The rest of the bonds were deposited in the
Manhattan Bank, in New York. Mr. Morrison, the
cashier of the Manhattan Bank, acted as agent of
my company in disposing of the bonds deposited
in said bank. I do not know that he made any
14 representations concerning the bonds deposited in
said bank. One hundred and forty-three of the 300
bonds issued by the State to the Tennessee & Alabama
R. R. Co., as stated as above, were reserved
by the company to pay a debt due Thompson &
Forman for iron rails, manufactured and sold by
them to the company. Said firm was doing business
in England; and 140 of the 143 bonds were paid to
said firm in satisfaction of their debt, at par, some
time in 1855. On the bonds so held by the company
15 and not disposed of immediately, the interest was
paid by cutting the coupons from each bond fifteen
days before said coupons were due. They were cut
off by me and handed to our treasurer, who paid
them into the Bank of Tennessee.

I was appointed by the Governor as agent for the State in disposing of the bonds issued by the State to the Tennessee & Alabama Railroad Company, but never acted as such agent.

In January, 1855, there was a meeting held in the
16 City of Nashville, of presidents and other officers
of the railroad companies in Tennessee, and of companies
whose roads lay partly in Tennessee and
partly in adjoining States, which were entitled to
receive Tennessee State bonds under the Internal
Improvement laws of the State.

In this meeting it was determined to appoint three gentlemen, who were to act as agents of the

railroad companies entitled to receive Tennessee 17
State bonds under the Internal Improvement Acts.
The gentlemen so designated were myself, Campbell Wallace, then President of the East Tennessee
& Georgia Railroad Company, and Sidney Smith,
President of the Mobile & Ohio Railroad Company.

These last mentioned gentlemen were also to be
appointed and commissioned by the Governor of the
State as State agents to dispose of the State bonds
under the provisions of the Internal Improvement
Acts. I know that the Tennessee & Alabama Rail- 18
road Company ratified the selection of these gentlemen for the above purpose, and gave them a written
power of attorney to act as agents for said company,
in disposing of said bonds. And I am satisfied that
the majority of the railroad companies in the State
also ratified said arrangement and appointed said
gentlemen as their agents.

The Governor of the State afterwards appointed
and commissioned these three gentlemen as State
agents, in accordance with arrangement made at 19
Nashville. Mr. Wallace declined to act as agent
under either appointment, but Mr. Smith and I did
accept the appointments. It was our intention to
go to Europe to carry out the objects of our appointment.

Mr. Smith did go to England. I went to New
York with the intention of joining him in England,
but found it impossible to leave home, and therefore the scheme fell through entirely, and no action
was taken in the matter. 20

Sidney Smith is dead, and Campbell Wallace now lives in Atlanta, Georgia, as I am informed.

Frank Hardeman, the former treasurer of the Tennessee and Alabama Railroad Company is dead.

In the report made by me as president of the Tennessee & Alabama Railroad Company in 1856

21 to the stockholders, the following language was
used by me:

> " In addition to the reasons above suggested in de-
> " laying and not pushing forward the enterprise as
> " rapidly as we would desire, we might mention
> " the great stringency which has prevailed for sev-
> " eral years in the monetary affairs of the country,
> " which has been especially so in regard to foreign
> " capital, upon which we are more or less depend-
> 22 " ent in finding sale for State bonds and other rail-
> " road securities."

Also, on page 10 of the same report, the following language is used:

> " The war between Prussia and Allied Powers of
> " England and France having ceased, and peace be-
> " ing restored, we may look forward as a conse-
> " quence to a healthier condition of monetary af-
> " fairs, and a larger amount of foreign capital seek-
> 23 " ing investment in American securities, and there-
> " by we will meet with a more ready sale for State
> " bonds, and other railroad securities."

In the report of Frank Hardeman, treasurer of the Tennessee and Alabama Railroad Company, to the stockholders, dated August 6th, 1855, under the head of disbursements is the following item:

"State Coupons	$4,770 00"

24 In the treasurer's report dated July 26th, 1856,
under the head of "Disbursements" is the follow-
ing item:

" State Bond Interest....	$22,972 50"
" Davidson Bonds........	549 48"

The county of Davidson took stock in the Tennessee and Alabama Railroad Company to the amount of $200,000.00, for which the county issued its bonds, payable to and endorsed by the railroad company, upon which bonds the railroad company was liable for the payment of the principal and interest, on failure of Davidson County to pay at maturity, and upon notice to the company. 25

We never received any such notice.

In the report of said treasurer of the company to the stockholders dated July 31st, 1857, under the head of

"TREASURER. 26

" Dr.		Cr.
	" By Cash, Davidson Bonds,	$ 918 50
	" " State Bonds....	18,180 00

During the year 1856, the Tennessee and Alabama Railroad Company issued about $200,000 of its own bonds, with coupons attached for interest, to secure which the income of the road was pledged, after paying all expenses and prior incumbrances."

In the treasurer's report to the stockholders dated June 30th, 1858, under the head of "Disbursements" are the following items: 27

" Cash paid State Coupons..........	$20,758 50
" Company "	1,645 41

Below this table are the following items:

" Bonded Debt—State Bonds.....	$771,000 00
" Company "	46,000 00

When the 43 State bonds now due to the company, but not issued, are received, the bonded debt will be as follows: 28

State Bonds received...............	$771,000 00
" " not "	43,000 00
Company Bonds....	46,000 00
	$860,000 00

29 In the President's report to the stockholders in 1859 is the following:

"**Bonded Debt.**

"Tennessee 6 per cent. Coupon Bonds,	$846,000.00
"Tennessee and Alabama Railroad "Bonds endorsed by the State.	14,000.00
Total	$860,000.00

30 In the Treasurer's report of 1860 is the following:

" *Dr.*	Treasurer.	*Cr.*
"	State Coupons	$51,300.12
"	Coupon Co. Bonds	424.29."

The Tennessee and Alabama Railroad was finished during the year 1860.

The first payment made by the Tennessee and
Alabama Railroad Company on its Sinking Fund
31 account was in 1859, at which time it paid $6,000 to
the Sinking Fund Commissioners. The reports of
the treasurer of the company show that no payment
by said company on the Sinking Fund account due
on the 1st of January, 1860.

The treasurer's report of the Tennessee and Alabama Railroad Company, made in June, 1861, for the twelve months previous contains the following:

" **Statement.**

32 "Of the Treasury of the East Tennessee and Ala-
"bama Railroad Company for the year ending June
"30th, 1861.

" *Dr.*	Treasurer.	*Cr.*
	By cash Sinking Fund	$3,600.00

There were no reports made by the President or other officers of the company after 1861, until after 33 the war. The above amounts of $6,000 and $3.600 are the only payments shown by the reports of the treasurer of the company to have been made by said company on the Sinking Fund account.

I make this last statement from an examination of the reports of treasurer from the year 1853 up to and including the report for the year ending June 30th, 1861, with the exception of the report of 1854, which I have not examined, but the report of 1862, which is not before me, may include all the Sinking 34 Fund due the State anterior to that period.

In the treasurer's report, dated August 6th, 1866, here exhibited to me is the following:

"In March, 1863, the safes of the company were broken open and some of the books and papers mutilated and destroyed; the loss to the company by the books and papers and notes will be inconsiderable, as they can be restored by diligence and labor in time for the purpose of the 35 company; a small amount of money and two (2) bonds, one State and one Davidson County bond, and some loose coupons were also taken from the safes. The numbers were also lost so, that there are no chances to recover these." The numbers were lost with the bonds and coupons themselves.

I don't suppose that he kept any account of the numbers; I certainly never instructed him to do so. R. H. Bradley, Secretary of the Tennessee & Alabama Railroad Company for some years before the 36 war, is now living at Franklin, Tennessee.

Re-examination:

The bonds that were loaned to my company by the State were payable to bearer, and were not marked or endorsed in my name nor in the name of my company so as to indicate that they had been

37 loaned to the company, but they were issued and passed to us as bank notes are. Many of the bonds issued to us we did not sell immediately, but retained them longer than the period of the falling due of the first coupons.

The witness being asked the following question: "Whether the language quoted in your answer to "cross examination from your report of 1856, and "which language is as follows; 'State bonds "'and other railroad securities.' Now, did you 38 "mean by this expression to designate or characterize State bonds as railroad securities?"

> (Complainant by counsel excepts to the foregoing question, because it seeks to elicit from the witness an answer which will attempt to construe the language used. This is a matter for the Court and not the witness.
> S. Watson, sol'r for compl't.)

The witness answers as follows: I meant to des-39 ignate the State bonds as entirely distinct and different from the railroad securities, by which latter term I meant to include the company bonds and Davidson County bonds that were a subscription to the road.

I am neither a stockholder nor director in the Tennessee and Alabama Railroad Company, but I am an original stockholder and holder of 10 shares in the Nashville & Chattanooga Railroad Company. I understand the 10 shares have been multiplied.

40 The items quoted in the cross-examination from the Trustees' report of 1865, under the head of "Disbursements," as follows:

State coupons .... $4,770.00.

I do not know what it means, unless that it designates the amount of the interest paid to the State. I know that we never did pay the coupons attached to the identical bonds issued to us, except in the instances I have already mentioned, where we held the bonds past the time or to the time when a coupon fell due; then we clipped them off and paid them to the Bank of Tennessee on account of our interest. I know that I did not, and none of the company's officers ever did by my instructions, attempt to hunt up and pay the coupons attached to the identical bonds issued to our company in the hands of others. The two following items quoted in the cross-examination from the Treasurer's report of 1856 and 1857, viz.: 41 42

DISBURSEMENTS.

Paid to Davidson Bonds	$549.48
By cash	918.50

These two items cannot designate payments by our company on Davidson County bonds as debtors, for we never did pay any Davidson County Bond in the place of that county. These two items must mean some disbursements or expense on account of these bonds or some other purpose that I don't know. 43

The two items in the reports of the Treasurer for 1856-57, headed "Disbursement," viz.:

Paid to State bond interest..	$22,972.00
By cash State bonds........	18,180.00

are intended to designate the interest paid in 1856-1857 to the Bank of Tennessee as the agent of the State. 44

I mean by saying it was the agent of the State, that it was the agent of the State to receive the interest on the State bonds due from the company to the State, and as the agent of the State it paid her coupons both here and in New York whenever they fell due.

45 *Re-cross examination:*

When the company held bank notes it was not necessary to use any exertion to dispose of them, because they passed from hand to hand as money.

The resemblance between a bank-note and a Tennessee State bond is that both were payable bearer, and pass by delivery without endorsement and are both numbered.

It was no part of my duty as President of the Company to receive or pay out the funds of the company 46 unless specially instructed by the Board of Directors. In making the explanations I have made in the re-examinations in regard to the items in the Treasurer's report, I do not speak from my own personal knowledge of the transactions, but have given my opinion based upon my knowledge of the general conduct of the affairs of the company and its course of business.

47 (Complainant excepts to all that part of this deposition which gives the witness' opinion in regard to the items in the Treasurer's reports, because it is not the best evidence, and the attempted explanations are based not on personal knowledge, but on inferences drawn by the witness from other facts.

S. WATSON,
Solicitor for Compl'ts.)

The income bonds of the Tennessee & Alabama 48 Railroad Company mentioned in the cross-examination, were sold generally by the Treasurer to the citizens of Williamson and adjoining counties. The county bonds issued to the company for stock were principally sold at home; only a few were sold abroad.

Re-examination:

When in my explanations on the re-examination

in chief I state that I know that my company did not 49
pay any Davidson county bonds as debtor in lieu of the county, the fact is stated on my personal knowledge and not as an opinion.

Again, when I state in the re-examination in chief as to the items "State bond interest $22,972.00, By cash State bonds $18,180.00," I state that these items represent interest paid to the State on the amount of bonds lent to us by the State, and do not represent interest paid to the holders of coupons
attached to the bonds issued to us, for I can state 50
emphatically that though I presided over the meetings of the board of directors for some ten or twelve years, I never heard it even suggested that it was our duty to pay on the identical bonds issued to our company.

Counsel for the complainants desires the following questions to be asked the witness:

Q. Did you pay the item mentioned in the Treas-
urer's report of 1855 under the head, "State cou- 51
pons, $4,470.00," or did you pay the amount in the item of "State Bonds interest, $22,972.50?" If so, to whom were the payments made?

A. I did not do it in person. The payments were made to the Bank of Tennessee.

Q. Did you see the payments made?

A. I do not remember to have seen it paid, though I was sometimes with the Treasurer when the payments were made.

3 Q. When you state in the re-examination that 52
these payments were made to the State; do you not mean that they were made to the Bank of Tennessee?

A. I mean that they were made to the Bank of Tennessee as the agent of the State.

And further this deponent saith not.

JOHN S. CLAYBROOKE.

53 After the attorney for the plaintiff had left my office, the said J. S. Claybrooke made the following statement, viz.: "Our company was authorized by act of the Legislature to receive endorsement and guarantee of the State on our own bonds, but the company had it changed so as to make the aid of the State to the company straight Tennessee bonds, and this was done for the reason that the straight Tennessee bonds commanded a better price in the market than bonds of the company endorsed and
54 guaranteed by the State." Which said statement by agreement of counsel for parties plaintiff and defendants may be added to and made a part of this deposition above deposed to.

Attest:

Middle District of Tennessee:

I hereby certify that the foregoing deposition was taken by me and reduced to writing in the presence
55 of the witness and subscribed by him; that I am not of counsel nor attorney for any of the parties to the suits in which said deposition was taken, and that the fee for taking said deposition, amounting to $4.40, has been paid to me by W. Y. C. Humes, attorney for defendants.

Given under my hand at Nashville, in
said district, this 23d day of September, 1879.

56

LEWIS T. BAXTER,
Examiner, as aforesaid.

Middle District of Tennessee, ss.:

I, Lewis T. Baxter, Clerk of the Circuit Court for the District aforesaid, do certify that the foregoing is a full, true, and perfect copy of a deposition taken by me as Examiner at Nashville, Tennessee, on the 23d day of September, 1879. 57

[SEAL.] Given under my hand and seal of office in Nashville, this 25th day of September, 1879.

LEWIS T. BAXTER,
Clerk.

P. 116. BOND BOOK. A.

"Exhibit B." 58

TENNESSEE AND ALABAMA RAILROAD COMPANY.

$200,000.

Received of Andrew Johnson, Governor of the State of Tennessee, two hundred coupon bonds of said State for one thousand dollars each, drawing six per cent. interest, numbered from No. 916 to 1,115 inclusive, dated the 1st day of January, 1854, and falling due on the 1st day of January, 1892, being a part of the first issue, being 300 bonds to 59 said Company under the general Internal Improvement Act passed on the 11th of February, 1852, and the Act amendatory thereof passed, on the 8th February, 1854, the first coupons on said bond falling due on the 1st January, 1855.

Nashville, July 4, 1854.

JOHN S. CLAYBROOKE,
Agent of said T. & A. R. R. Co. 60

I, C. N. GIBBS, Secretary of State of Tennessee, do hereby certify that the foregoing is a copy of a receipt given by John S. Claybrooke, Agent of said T. & A. R. R. Co., for bonds of the State of Tennessee issued to said Company, numbered from 916 to 1,115 inclusive, the original of which is now of record in my office.

61 In testimony whereof, I have hereunto subscribed my official signature, and by order of the Governor, affixed the great seal of the State of Tennessee, at the department in the City of Nashville, this 18th day of July, A. D. 1879.

[SEAL.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
62 *Davidson County.*

I, JOHN C. FERRIS, sole presiding Judge of the County Court of said County, do hereby certify that Charles N. Gibbs, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

63 Given under my hand at office, this 18th day July, 1879.

JOHN C. FERRIS,
County Judge.

STATE OF TENNESSEE,
Davidson County,

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that John C. Ferris, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same, sole presiding Judge of the County Court 64 in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court at office, this 18th day of July, 1879.

[SEAL.] J. R. McCANN.

EXHIBIT TO DEPOSITION OF JOHN S. CLAYBROOKE. 65

UNITED STATES OF AMERICA,
STATE OF TENNESSEE.

At a meeting of the Board of the Directors of the Railroad Company, held at the office of the Company in on day of 1855, the following preamble and resolutions were adopted, viz.: 66

Whereas, The General Assembly of the State of Tennessee, by act passed the 11th day of February, 1852, entitled, "An Act to establish a system of Internal Improvements in this State," and by an amendatory Act, passed the 8th day of February, 1854, authorized the Governor of said State to issue bonds to various railroad companies, after they had organized and complied with certain conditions specified in said Act and amendments, the proceeds of said bonds being intended for the purchase of 67 iron rails and equipments. And

Whereas, It is very desirable that a permanent value shall be maintained for these securities, and to effect this object a plan has been suggested of having union and concert of action between the organized companies included in said Acts, to whom bonds have been or may be issued, by placing all of said bonds, as received, in one and the same channel of negotiation, to consist of two or more 68 Houses, of first character for financial power and influence, thereby, not only depreciation below their par value, but enabling the negotiating bankers and iron manufacturers to carry their market value permanently above par, and thus secure to this Company a greater amount of revenue from said bonds, and said bankers and iron manufactur-

69 ers more fully in making advances of money, rails
and equipments, upon the most reasonable terms,
from time to time, in anticipation of higher rates
for said bonds; and whilst the several companies
may be preparing successive sections of their roads
for the rails, and otherwise complying in good faith
with the conditions of the above-mentioned Acts.
Therefore, for the consummation of said plan, and
to secure to this Company the benefits to result
therefrom

70 *Be it Resolved*, By the Board of Directors of the
Railroad Company (one of the roads
specified in said Internal Improvement Acts),
that John S. Claybrooke, President of the
Tennessee & Alabama Railroad Company, Sidney
Smith, President of the Mobile & Ohio
Railroad Company, and Campbell Wallace,
President of the East Tennessee & Georgia Railroad
Company, are hereby constituted and appointed
71 the lawful attorneys of this company (either two of
their number acting and concurring), with full power
and authority to enter into such agreements and
covenants with bankers or iron manufacturers, as
may be necessary to effect the objects set forth in
the foregoing preamble and these resolutions,
resolution, and for that purpose to go to New York,
England, or elsewhere, as the joint agents of this
company, and other railroad companies of the State
of Tennessee, that act with this company in the
premises.

72 *Be it further resolved*, That the earliest practicable
arrangement of this matter by the said attorneys
is desired by this company, to whom said
attorneys will make a report of their doings, accompanied
by copies of all agreements entered into by
them on the subject of their agency.

Be it further resolved, That on receipt of said
report and agreements, all bonds of the State of Ten-

nessee then held, or that may hereafter be received 73
by their company from the State, shall be placed in the one channel of negotiation, as may be agreed for and as prescribed by said attorneys.

And be it further resolved, That when the joint channel of negotiation shall have been fully organized and established by agreements and covenants, as herein contemplated, the joint agency hereby created therefor shall cease and determine; and this company shall thereafter conduct its business in
said channel, in accordance with such agreements 74
and covenants, by its own officers, independently of all other companies.

In witness whereof, the President and Secretary of this Company have hereunto set their names and attached the Company's seal, this day of 1855.

President. 75

Secretary.

REMARKS.

Length of the within-named road in Tennessee, miles.

Terminations at

And connecting the railroad with the railroad.

Estimated time for drawing bonds for 1st section of 30 miles 185 76

Estimated time for drawing bonds for 2d section of 30 miles 185

Estimated time for drawing bonds for 3d section of 30 miles 185

Estimated time for drawing bonds for last section of 30 miles 185

Total amount already drawn, $ — Total amount to be drawn for road and bridges, $

STATE OF TENNESSEE, County. } ss.:

Personally appeared before me, Judge of the Circuit Court of County the within named President, and Secretary of the railroad company, with whom I am personally acquainted, who acknowledged that they signed, sealed and delivered the foregoing power of attorney, as they were legally and officially authorized to do, on the day and year therein mentioned.

Given under my hand and seal, this
day of in the year
eighteen hundred and fifty-five.

Circuit Judge of County.

Deposition of R. C. Jackson. 1

THE UNITED STATES OF AMERICA, }
Eastern District of Tennessee, } ss.:

Be it remembered, that, on the 30th day of August, 1879, before me, Clerk of the United States Circuit Court for the Eastern District of Tennessee, at my office, in the city of Knoxville, within said district and the Sixth Circuit, was produced, and personally came, R. C. JACKSON, witness on the 2 part and behalf of the defendants in a certain suit now depending and undetermined in the Circuit Court of the United States for the Western District of Tennessee, wherein Calvin Amory Stevens *et al.*, on behalf of the holders of bonds issued to the Memphis & Charleston R. R. Company, Complainant, and the Memphis & Charleston R. R. Company and the East Tennessee & Virginia & Ga. R. R. Company, Defendant, to depose and the truth to say in said suit; and, thereupon, the said R. C. JACKSON, being of lawful age and sound mind, being by me first duly cautioned and sworn to testify 3 the truth, the whole truth, and nothing but the truth, touching the matters in controversy in said suit, did answer to the interrogatories and cross-interrogatories propounded to him, depose and say as follows:

I am 69 years of age, will be 70 next month, and I live in Knox County, in the suburbs of Knoxville; have been living here between nine and ten years; previous to that time I lived forty-two years in Athens, McMinn Co., Tennessee, and previous to 4 that time in Knox County, Tenn.

5 I am banking at present; have been since 1872—
December; have been president, and am now cashier,
of the East Tenn. National Bank; I was connected
with the East Tenn. & Ga. Railroad from February
or March, 1849—first, as secy. and treasurer, then
as secy, and treasurer and supt. of transportation,
then as general supt.—until Sept. or Oct., 1863. In
the summer or fall of 1875, when the road was surrendered
to the government, I was made vice-president;
some time after, the time I do not exactly
6 remember, I was made general supt. of the E. T. &
Ga. and E. T. & Va. Railroad Companies; after the
consolidation of these two roads, which happened
prior to 1870, I acted as general superintendent until
the fall of 1871. As agent of the railroad company
I did receive bonds of the State loaned to the
E. T. & Georgia R. R. Company, for building the
Chattanooga and Cleveland branch.

This occurred in 1858 or 1859. I sold State bonds
lent to this company frequently from 1853 to 1859,
7 and probably to 1860. I never sold any under par,
and do not recollect of ever selling any at a premium,
unless it was upon getting money advanced
without interest upon a promise to deliver bonds
to the amount of the loans at fixed future date,
which I did in one or two instances which I recollect,
and probably several. In selling such bonds I
represented them as straight Tennessee State bonds,
resting on the faith and credit of the State alone
for their payment, and I never said or represented
8 that there was any statutory lien on the property of
the railroad in favor of the holder or to secure the
bonds. No purchaser ever claimed or intimated to
me that any other person was liable for the redemption
of the bonds but the State. All the bonds I
sold I negotiated or sold in person, and not through
a broker or banker. Within my knowledge, in

negotiating the bonds, no representations were 9
made by the company or any of their authorized agents to the effect that the bonds were liens upon the road, in favor of the holders of the bonds, and I never heard of such a thing until within the last two or three years.

All the State bonds I received during the years 1858 and 1859, all that I sold as above stated from 1853 to 1859 or 1860 were coupon bonds of the State of Tennessee, payable to blank or bearer. No
system of marking or endorsing these bonds was 10
adopted or resorted to by me or the company, as I know of, as a means of identifying these bonds as the bonds loaned by the State to the company. My recollection of our method of keeping the account is that when we disposed of a State of Tennessee bond we credited State bonds and charged cash. I have no recollection of ever seeing any difference in the quotation between Tennessee State bonds previous to the war, and I looked to the quotations
when I was selling State bonds (I mean Ten- 11
nessee six per cent. State bonds—the five per cents. were, of course, a little lower) in price. Since the war I have not particularly noticed the price of State bonds, but think probably there is a difference between what are called the old and new series. When I speak of quotation, I mean the New York quotations of market price. My recollection is that the interest account with the State was kept with the general interest account, and
showed only the amount of interest due the State 12
semi-annually and its payment. We were required to pay the interest fifteen days before the first of January and the first of July of each year; we uniformly paid it to the Bank of Tennessee as the fiscal agent of the State, and the bank gave us a receipt each time as and for the interest so paid to the

13 State. We usually paid the interest in currency;
ssmetimes we paid it in currency and coupons. I
mean in any coupons then due or overdue of any
six per cent. bonds of the State of Tennessee.

We never were required by the State authorities
to limit ourselves to, or pay in coupons of, the
identical bonds issued to our company, and never
attempted to do so, nor to keep any accounts looking
to that purpose. So too as to the sinking fund,
we were never required to pay, and never made examination
14 as to whether or not we were paying, in
the identical State bonds issued to our company, or
any other State bonds. In paying interest and
Sinking Fund on endorsed bonds we paid the coupons
and the bonds issued by the company and endorsed
by the State. I never was present but once
when the interest was paid to the bank, and this
was in Chattanooga in 1862 or 1863; we were careful
to ascertain that the bank's accounts showed the
same amount of bonds as our books showed, so as
15 to show the true amount of interest due from our
Company to the State; and we paid that amount in
money, or in money and coupons as the interest due
from the Company to the State on account of the
debt due for the bonds loaned the Company by the
State. When I said that the State would receive
coupons due or past due, I meant to include the
coupons which would fall due on the first days of
January and July, we paying in December and June
previous. In paying the interest we made no attempt
16 to designate to the bank that the interest
so paid should be applied to the payment of any
coupons, or applied in any way. We were directed
to make our payment of interest to "The Bank
of Tennessee," and when we got our receipt from
the bank for the interest paid, we considered we
had done everything necessary to be done. Not to

my knowledge, and I think I would have known of 17
it if it were done, did either of the companies with which I was connected appoint anyone in Nashville, New York, Philadelphia or elsewhere to pay the identical coupons attached to the bonds issued to these companies by the State. The East Tennessee and Georgia R. R. Company paid its last interest in July, 1863, or the year before or after, and discontinued payment for several years, and neither during that period or since have I ever heard or
known of any holder of the coupons attached to the 18
bonds issued to this company, presenting and demanding payment of said coupons of said company. I am a director and stockholder of the E. T., Va. & Ga. R. R. Company, and in no other way connected with it.

The amount of my stock in the said E. T., Va. & Ga. R. R. Company is $10,000 or $11,000, and I have no other interest in it.

Complainants, by their solicitor, except to the 19
whole of the foregoing deposition upon the ground that the questions and answers are wholly irrelevant to the issues raised by the pleadings, and are incompetent.

R. C. JACKSON.

T. S. WEBB,
Solicitor.

20

Deposition of John J. Craig. 1

THE UNITED STATES OF AMERICA, } ss:
Eastern District of Tennessee, }

Be it remembered, that on the 30th day of August, 1879, before me, Clerk of the United States Circuit Court for the Eastern District of Tennessee, at my office in the city of Knoxville, within said District, in the Sixth Circuit, was produced and personally came John J. Craig, witness on the part 2 and behalf of the defendants, in a certain suit now depending and undetermined in the Circuit Court of the United States for the Western District of Tennessee, wherein Calvin Amory Stevens *et al.*, on behalf of the holders of bonds issued to the Memphis and Charleston Railroad Company, are complainants, and the Memphis and Charleston Railroad Company, and the East Tenn., Va. & Ga. Railroad Company are defendants, to depose and the truth to say in said suit.

And thereupon the said John J. Craig, being of lawful age and sound mind, being by me first cau 3 tioned and sworn to testify the truth, the whole truth and nothing but the truth, touching the matters in controversy in said suit, did, in answer to the interrogatories and cross-interrogatories propounded to him, depose and say as follows:

I reside at Canton, Miss., and am here temporarily until I can return in safety; I reside about 200 miles from Memphis, Tenn., and about 400 miles from Knoxville, Tenn.

4 I resided in New York City from 1865 to 1868, and from 1868 to 1877 in Knoxville, Tenn., and from

5 1877 to 1879 in Miss.; I was a banker most of the time when in any business; my house of Craig, Morton & Co., of New York, acted as agents of the Cincinnati, Cumberland Gap & Charleston Railway Company during the years of 1866 and 1867—the time may have embraced from 1865 to the latter part of 1868—and did negotiate the sale of State bonds issued to them by the State. As to the amount of said bonds so sold and negotiated by us, I do not think it was less than one hundred thousand dollars
6 nor more than three hundred thousand dollars. The time of selling said bonds was between the years 1865 and the latter part of 1868, as stated above, and the place of sale was Wall street, New York City. I am confident we sold said bonds at not less than 60 cents nor more than 80 cents; they were coupon bonds of the State, payable to bearer; I sold them as straight Tennessee State bonds, and did not represent them as having any lien on any railroad in favor of the bondholders. The question
7 wes never mooted as to their being issued to any railroad at all. If it had been believed or represented that there was additional security of any kind it would probably have increased the value of the bonds, but they were sold wholly as State bonds, and their value rested wholly upon the faith of the State in paying them.

I resided in Knoxville about 20 years prior to 1865, and up to that date I was cashier of the Union Bank at Knoxville from the year 1853 to the close
8 of the war. During the time I served as such cashier my opportunities for knowing and learning the value of the bonds were good, as I often had occasion, both in my official and individual capacity, to handle the different series of State bonds, sometimes holding them as collateral for money loaned, and sometimes purchasing them for myself and

friends as investments. During the period I do not 9
recollect of ever having heard of such bonds having any mortgage lien on the railroads in favor of the bondholders. They were sold as straight State bonds. Prior to the war I do not think there was any difference in the market price or value of bonds belonging to the different series of State bonds issued. Since the war there has been a difference in the market price or value of old and new State bonds. By the old bonds I mean or understand
those bonds issued previous to the war, and by the 10
new bonds those issued since the war, commencing with Brownlow's administration, but what the difference in price was I do not know; it varied from one to two per cent. The old bonds included the "Hermitage Bonds," "Capital Building Bonds," "Turnpike Stock Bonds," and also the bonds issued to the railroad previous to the war. I have not at this time any connection with or interest in the various railroads of the State, their stocks or securities. 11

The amount of bonds sold by us on account of the Cincinnati, Cumberland Gap and Charleston Railroad Company amounted, as before stated, to not less than one hundred thousand dollars, and may have been as much as five hundred thousand dollars, but it is a matter purely of personal recollection, and therefore not accurate.

Complainants by their solicitor except to the whole of the foregoing deposition, upon the ground 12
that the questions and answers are wholly irrelevant to the issues raised by the pleadings.

T. S. WEBB,
Sol'r, &c.

And further this deponent saith not.

JNO. J. CRAIG.

1

Deposition of Major Campbell Wallace.

CIRCUIT COURT OF THE UNITED STATES,

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS, on behalf of the holders of bonds issued to the MEMPHIS & CHARLESTON RAILROAD COMPANY, 2

vs.

THE MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.*

No.
In Equity.

CIRCUIT COURT OF THE UNITED STATES,

EASTERN DISTRICT OF TENNESSEE. 3

CALVIN AMORY STEVENS, on behalf of holders of bonds issued to the EAST TENN. & GEORGIA RAILROAD COMPANY,

vs.

THE EAST TENN., VIRGINIA & GEORGIA RAILROAD COMPANY *et al.* 4

No. 662.
In Equity.

5 CIRCUIT COURT OF THE UNITED STATES,

EASTERN DISTRICT OF TENNESSEE.

Calvin Amory Stevens, on behalf of holders of bonds issued to the East Tenn. & Virginia Railroad Company,

6 *vs.*

The East Tenn., Virginia & Georgia Railroad Company *et al.*

No. 663.
In Equity.

CIRCUIT COURT OF THE UNITED STATES,

EASTERN DISTRICT OF TENNESSEE.

7

Calvin A. Stevens, on behalf of holders of bonds issued to the Cincinnati, Cumberland Gap and Charleston R. R. Co.,

vs.

The Cincinnati, Cumberland Gap & Charleston R. R'd Co. *et al.*

8

No. 664.
In Equity.

CIRCUIT COURT OF THE UNITED STATES, 9

EASTERN DISTRICT OF TENNESSEE.

Calvin A. Stevens, on behalf of the holders of bonds issued to the Knoxville & Kentucky Railroad Company,

vs. No. 665.

The Knoxville & Kentucky Railroad Company. 10

CIRCUIT COURT OF U. S.,

MIDDLE DISTRICT OF TENNESSEE.

Calvin A. Stevens, on behalf of bonds issued to the Nashville & Chattanooga R. R'd Company, 11

vs. In Equity.

The Nashville, Chattanooga & St. Louis Railway, *et al.*

Calvin A. Stevens, on behalf of holders of bonds issued to the Nashville & Northwestern R. R. Co., 12

vs. In Equity.

The Nashville, Chattanooga and St. Louis Railway *et al.*

13

CALVIN A. STEVENS, on behalf of holders of bonds issued to McMINNVILLE & MANCHESTER R. R'D Co.,

vs.

THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY *et al.*

} In Equity.

14

CALVIN A. STEVENS, on behalf of holders of Bonds issued to the WINCHESTER AND ALABAMA RAILROAD COMPANY,

vs.

THE NASHVILLLE, CHATTANOOGA
15 AND ST. LOUIS RAILWAY *et al.*

} In Equity.

The deposition of MAJOR CAMPBELL WALLACE, President of the Merchants' Bank of Atlanta, taken on behalf of the defendants, at the Merchants' Bank in Atlanta, I. C. D. Woodson, a notary public, for the County of Fulton, State of Georgia, and in the presence of W. Y. C. Humes, solicitor of the defendant, on the 2d day of October, 1879.

16 The said witness CAMPBELL WALLACE, being first duly sworn, deposes and says: My name is Campbell Wallace; my age is seventy-three years; I am a resident citizen of the State of Georgia, and have been for fourteen years last past. I am now and have been for more than six years the President of the Merchants' Bank of Atlanta, actively employed in the duties of that office. I have no connection

official or other, with any of the railroad companies 17
of Tennessee, nor am I at all interested in any of their stock or securities, bonds or assets, nor any bonds issued by any of them or by the State of Tennessee for any purpose, except ten shares of stock of the Knoxville and Ohio Railroad Company. Nor am I interested in any, the smallest degree, in the issue of any of these suits. I was a citizen and resident of East Tennessee all my life until my removal to Georgia in 1865. I was a di-
rector in the East Tennessee and Georgia Railroad 18
Company prior to and up to 1853, when I was elected its President, and from 1853 to July, 1865, gave my time and attention almost entirely to the duties of that office, and the interest of that road. I was its chief executive officer, and financial agent. Under my direction and immediate control all its fiscal operations, transactions and contracts were made, consummated, and performed, from 1853 to 1865. I personally know that the State of Tennes-
see did lend its endorsement and guarantee on and 19
to the bonds of several railroad companies, including bonds of the Nashville and Chattanooga Railroad Company, of the East Tennessee and Virginia Railroad Company and of the East Tennessee and Georgia Railroad. And these company bonds were secured by first liens and mortgages on the railroad companies issuing them in addition to the endorsement and guarantee of the State. However, the 150 bonds of the Nashville and Chattanooga
Railroad Company, issued by that company with 20
the endorsement and guarantee of the State to aid in the construction of the Chattanooga Branch of the East Tennessee and Georgia Railroad Company were secured by a first mortgage on the said Chattanooga Branch These bonds of various companies, though secured by the endorsement and guarantee of the State, as well as by first liens and mortgages

21 on the property of the roads issuing them, did not sell for as high prices as straight Tennessee State bonds bearing the same rate of interest and for whatever purpose issued, whether for railroads or purely State purposes.

Before I was elected President, the East Tennessee and Georgia Railroad Company had received from the State of Tennessee State bonds payable to bearer, with coupons attached, payable semi-annually, to the amount of $350,000 as a loan. After I
22 became its President, and up to July, 1861, the East Tennessee and Georgia Railroad Company received in addition to the above, as a State loan bonds to the amount of $812,000, of the same character and description as the above under the general Internal Improvement Act of February 11th, 1852, Ch. 151, and the Acts amendatory thereof; so that our whole debt to the State for six per cent. State bonds lent to us amounted on the 30th of June, 1860 to, and appears in the report of that date as
23 follows:

State loan, . . .	$1,162,000

The account as to Company bonds of the East Tennessee and Georgia Railroad Co., endorsed by the State is set down:

Endorsed bonds, . . .	$150,000

In our entire dealings with the State bonds issued to our road, we regarded and treated them as the obligations of the State of Tennessee alone, and we treated, construed, and regarded our obligation
24 (arising from the loan of said State bonds to us by the State), as a debt due from the railroad company to the State alone for the amount of the bonds so lent to the company, at their nominal or face value, and they were the equivalent of money for State of Tennessee six per cent. bonds were then worth and selling at par, as the State had never defaulted in the payment of the interest on her bonds at matur-

ity. The $812,000 of State six per cent. coupon 25
bonds payable to bearer issued to said Company
during my Presidency were disposed of under my
direction by the Treasurer, R. C. Jackson, and by
me. They were sold as required by the law, and
their proceeds applied strictly in accordance with
its provisions. I sold them principally in Tennessee.
I never thought of, nor represented, nor
directed any one to represent to any buyer that the
payment of the bonds to the holder was secured by
any obligation of the company or by any lien on the 26
property of the company in favor of the bondholders;
I did not think so myself, and never heard
it suggested or claimed by any one during the
period we were receiving and selling them, nor did
I ever hear of such a claim by any one until within
the last two years. When we received the several
instalments of these State bonds from the State as
loans, no State officer then or at any other time instructed,
directed or requested us to adopt any
system or mode of identification, marking, 27
or noting the particular bonds issued to us,
nor even to preserve the numbers, and we
did not ourselves adopt any such system or mode,
but we simply credited to "State loan" the amount
issued at the time, and on sale of them charged to
cash. In paying our semi-annual interest to the
State on the amount of her loan to us we did not
attempt to have the payments so made applied to the
particular coupons attached to the bonds issued to
us; nor did we attempt to hunt up said coupons to 28
pay them ourselves; nor did we ever entertain the
idea that any holder of State bonds was a creditor
of the company. On the 15th of December, and on
the 15th of June of each year, we paid the semi-annual
installment of interest due to the State from
our company on the amount of bonds previously
loaned to our company by the State. We paid this

29 interest to the Bank of Tennessee, as the general fiscal agent of the State, and we paid it indiscriminately in money, or any six per cent. coupons from any State bonds, whether issued to railroads or for any purely State purpose. Having paid our interest to the State, and received the receipt for it from the bank, we felt no further concern whether the State paid her coupons when they matured fifteen days afterwards on the bonds issued to us or not; and we never sought or attempted to get the coupons
30 attached to the bonds issued to our company, nor could we have identified them. But as to the bonds of our company endorsed by the State we did seek and did pay the coupons on them as our own liability; they amounted to $150,000.00 as at first issued, and were issued under a special act for the benefit of our branch road from Cleveland to Chattanooga. In keeping the account and paying the interest due from our company for the amount of bonds lent by the State to our company, we re-
31 garded and treated it as interest due to the State from our company on the amount of loan, and not as interest due from the company to the holders of the bonds issued to our company.

If I had regarded or thought our company was liable to the holders of the coupons and bonds of the State lent to us, we would certainly, for our own protection, have pursued the same course as to them, both in regard to the interest coupons and the bonds, that we did pursue in regard to our
32 bonds endorsed by the State.

As to these latter bonds, we carefully and regularly, every six months, paid the interest coupons attached to them as our primary obligations; and we saw to it that the State authorities, the Sinking Fund Commissioners, applied each annual payment to the extinguishment of our own bonds endorsed by the State. We bought any six per cent. cou-

pons of State bonds which were offered to us, and 33
took them sometimes to accommodate our friends giving them the money for them; and coupons so bought, and taken, we used to pay our interest to the State, no matter from what State bonds they were taken, so they were from Tennessee six per cent. bonds, and so we satisfied the State authorities that we got them before or on the 15th day of December or 15th day of June, the dates of our payments. We paid our interest promptly and
regularly to the State every six months before the 34
war, and up to January 1st, 1863; but we afterwards fell behind in paying our interest to the State as follows, as I reported to the stockholders:

"The interest on State loan was paid up to 1st of January, 1863, and the balance of $155,550.00 was not paid to the State, when it fell due in 1863, 1864, and to 1st of July, 1865.

Although the State defaulted in the payment of all her interest coupons on all her bonds during
the war, and although this unpaid interest of our 35
company to the State, $155,550.00, remained unpaid for several years, yet no holders of the coupons, or of any interest coupon attached to the bonds issued to our said company ever presented such coupons or coupon to our company for payment, or ever demanded or claimed payment of such coupons or coupon from our company within my knowledge or information. In making the successive annual payments to the State of the sums produced by set-
ting apart the percentum on the amount of bonds 36
issued to our company, as required by the 7th section of the Act of February 11th, 1852, ch. 151, and also under the amendments thereto, we construed and treated them, and had them receipted for by the State officials as credits on our company's debt to the State for the State loan, and as payments in absolute discharge of that much of that indebted-

37 ness. The mode of the first act was to raise the
sinking fund by preserving the State bonds after
they had been assigned to the Governor and paid
into the Treasury of the State by the company, and
reinvesting the interest accruing on them in other
State bonds in order to accumulate before the
State bonds fell due a fund for the State sufficient
to enable her to pay her bonds. This clause of the
first act contemplated that, although these annual
installments were absolute payments by the company
38 on their debt to the State, and receipted for
as such when made, yet the company should continue
to pay to the State the interest on the amount
of bonds originally loaned to it, and these annual
payments, though absolute when made, were to be
credited as of the date when they and their accumulations
should equal the debt due from the company
to the State for the amount of State bonds
lent to the company.

Seeing the management of this scheme, I detected
39 that it was liable to confusion in the keeping of the
accounts at Nashville of the payments of bonds and
reinvestment of interests on bonds paid in by so
many companies—some twenty to twenty-five; and
more especially as these matters were managed by
political appointees, changed every two years with
the Governor's election, and not by business men
selected and retained for their financial skill. By
this confusion we were in peril of losing some of our
credits for bonds paid in and thus have to pay again
40 the credit so lost. For these reasons I, as President
of the East Tennessee & Georgia Railroad Company,
solicited and induced the Legislature, having John
Marshall, as President of the Tennessee & Alabama
Railroad Company, to help me, to increase the annual
payments required to sums adequate to liquidate
the debts of the several companies to the State,
before the State bonds should fall due, without the

compeer mode above set forth, of keeping the 41
bonds, setting aside the accruing interest, reinvesting it, and thus accumulating the fund for the State.

The Legislature did increase the annual payments of percentage to 2½ per centum on the amount of bonds loaned to the respective companies, and did require the bonds in which these annual bonds were to be made to be cancelled when paid in, instead of being kept, and did allow the payments to
be credited as of the dates they were actually made 42
instead of as of the date the accumulated fund should equal the Company's debt for the amount of State bonds loaned to it. The Legislature very willingly and readily adopted this measure because it increased the amount of State bonds annually to be paid by all the railroad companies to the State, and would thus accomplish the purpose of the original act of retiring by or before the maturity of the bonds as many of them as the State had issued to
railroad companies. 43

The officers of some of the railroad companies were opposed to this increase of annual payments; but I, as President of the East Tennessee & Georgia Railroad Company, not only solicited and favored its adoption, but after its adoption I increased our payments beyond the requirements of the law. As evidence of this, I here, as part of my deposition, quote the following brief and truthful report on this subject made by me to the stockholders on the
3d of September, 1862, viz: 44

"The Internal Improvement law requires 2½ per cent. to be paid annually on your funded debt, which is ample to liquidate your entire indebtedness to the State before it matures.

In consequence of the distracted condition of the country. the Legislature suspended the payment of this sinking fund, but we have thought it prudent

45 and to your interest to continue to pay not only the 2½ per cent., but as much more as possible, and your company are now some three years in advance of any legitimate call that can be made for payment of sinking fund. Your funded debt at present stands as follows :

Original State loans		$1,162,000
Paid and cancelled		125,000
		$1,037,000
46 Bonds endorsed by State	$150,000	
Paid and cancelled	35,000	
	$115,000	
Mortgage bonds		$ 800,000
Paid and cancelled		154,000
		$ 646,000
Total		$1,798,000."

47

The $800,000.00 of mortgage bonds were bonds of the company, with which the State had nothing to do.

I herewith file as exhibits to my deposition, copies of the receipts of the State officers for the $125,000.00 paid to the State in its six per cent bonds on the State loan to our company.

It will be observed that the $14,000.00 and $2,000.00 were paid in prior to 1860, and these re-
48 ceipts were acknowledgments of the cancellation of the bonds, under the Act of 1859-60, Ch. 90, previously paid in. The receipts, as to the endorsed bonds, show that we did not attempt to pay these endorsed bond debts in any but the identical endorsed bonds ; while the State loan we paid in any six per cent. bonds of the State without reference to what they were issued for, whether for railroads or

any purely State purpose. The Exhibits are marked Nos. 1, 2, 3, 4, 5, 6. 49

The Government of the United States, by its military authorities, and for military purposes, occupied and operated the road for about three years during the war, to the exclusion of the company, its agents and officers, and without compensation to the company, so far as I know. During the war the interest falling due, and unpaid by the company on its debt to the State for the State loan, on its bonds endorsed by the State, and on the 50 other outstanding bonds of the company, accumulated to the amounts following:

On State loan	$155,550 00
On bonds endorsed by the State	21,030 00
On mortgage bonds	98,910 00
Total July 1st, 1865	$275,490 00

After we made payments annually and semi-an- 51 nually of money or bonds to the State, under the Sinking Fund provisions of the 7th Section of the Act of 1852, Ch. 151, these funds thus paid to the State were no longer subject to or controlled by the companies, but were managed and controlled by the officers and agents of the State, as belonging to the State, and without accountability to the railroad companies. The practical financial effect of our annual payments to the State, under the Sinking Fund provisions, up to the 4th day of June, 1862, 52 when the last payment was made under my presidency, was the discharge of $125,000.00 of our State loan debt to the State, and the retiring of that amount of State bonds that had been issued for any and all purposes, as we had bought any State six per cent. bonds we found on the market without reference to the purpose for which they were issued;

53 and as they all bore the same price, whether issued to railroads or for any other purely State purpose.

The annual payments by the other railroad companies produced a like effect to the extent of those payments. If this scheme of the original act had been carried out, unobstructed by the war, or other adverse events, the final result would have been that the railroad companies, before the maturity of the bonds lent to them, respectively, would have paid the full amount of their respective debts to the State 54 for the State loans to them, by retiring to the State that amount of the State's own six per cent. bonds,

As the 7th section allowed us to buy and pay into the State Treasury, and we did buy and pay in any Tennessee six per cent. bonds without regard as to whether issued as loans to railroads or for any purely State purpose, many State bonds issued for other purposes that as loans to railroads, no doubt were retired and would necessarily have been so retired, leaving a like amount of the bonds issued to 55 railroads outstanding, and wholly unprovided for, except so far as the good faith and credit of the State secured them. That thus, many bonds issued to the railroads would have been left outstanding, was a result following necessarily from that provision or stipulation of the 7th section of the first act, allowing the railroad companies to make their annual payments by buying any bonds of the State of Tennessee, and paying them into the Treasury of the State after assigning them to the Governor. 56 Bonds so paid in were a perfect security to the State for the debt of the railroads to her, but were necessarily unavailable to a holder of outstanding State bonds. As to the State, the operation of this provision if carried out was to secure to her the payment of the full amount of the State loans to the railroads; and during the process and periods of payment to maintain all her six per cent. bonds

issued for any purpose at one uniform price, and 57
this was the actual fact, uniformity of prices as to all her six per cent. bonds. As to the railroads, the operation of this stipulation or provision was to secure to each of them the privilege of paying their State loan debt in any State six per cent. bonds, which they could do with greater facility and certainty than if required to hunt up the particular bonds issued to them. As to the bonds themselves the operation of this provision was to benefit them,
by giving them all the same chance to be retired by 58
any railroad purchase, and by increasing the State's ability to pay as her debt was diminished. When I made the last payment on the 4th of June, 1862, of $100,000 in State bonds, the payments of the East Tennessee and Georgia Railroad Company, were three years ahead of the requirements of the sinking fund provision, although they, the sinking fund requirements, were suspended by statute, and had we not been prevented by the disasters of the war,
taking away our road and destroying our income, 59
I would have continued to make the payments as fast and large as our means would have enabled us, until we had paid the State loan debt in full to the State in her own bonds or money, and extinguished our liability unless otherwise ordered by the directors. The only possible way the interest accruing on the State bonds paid into the State Treasury annually by the railroads, could be made available and used as a sinking fund, was for the State through her own
officers voluntarily to set aside so much money 60
from the funds in her Treasury; just as she would so much of her taxes collected, or any other revenues for a defined State purpose; as to meet the expenses of her Public School, or any other State obligation. The practical management was of her revenues as a sinking fund to meet her own obligations.

CAMPBELL WALLACE.

61 I, C. D. Woodson, a notary public in and for the city of Atlanta, in the State of Georgia, hereby certify that on the second and third days of October, 1879, in the office of the Merchants' Bank of Atlanta, and in said city of Atlanta, I was attended by the counsel, W. Y. C. Humes, for the defendants, and the witness aforesaid; that the said witness was duly sworn and examined, and this deposition was reduced to writing by me, and read by the witness, and by himself subscribed in my
62 presence, and that Exhibits Nos. 1, 2, 3, 4, 5, 6, were introduced in said cause during the taking of said deposition.

Given under my hand and
seal of office, this 3d day
of October, 1879.

C. D. Woodson,
Notary Public,
Fulton County, Ga.

(Copy.)

63 EXHIBIT NO. 1 TO CAMPBELL WALLACE'S DEPOSITION.

No. 2. Nashville, Tenn., June 30th, 1860.

Received from the East Tennessee & Georgia R. R. Co., fifteen East Tennessee & Georgia R. R. Co.'s endorsed bonds, each for one thousand dollars, and numbered as follows: Nos. 21, 34, 39, 56, 60, 61, 62, 141, 24, 52, 22, 25, 150, 55 and 146.

These bonds are received on account of the semiannual payment due by said company as Sinking
64 Fund, being 10,875 dollars, due on the 1st day of April, 1860, and the balance of the fifteen bonds being an advance payment due 1st October, 1860.

ISHAM G. HARRIS,
Governor.
J. T. DUNLAP,
Comptroller.
Com'rs of Sinking Fund.

Bonds. 65

(Copy.)

EXHIBIT NO. 2 TO CAMPBELL WALLACE'S DEPOSITION.

No. 4. NASHVILLE, TENN., Dec. 22d, 1860.

Received from the East Tennessee & Georgia R. R. Co., seven endorsed bonds, each for one thousand dollars, and numbered as follows: 134, 132, 131, 133, 135, 10, 89. These bonds are received 66 on account of the semi-annual payment due by said company as Sinking Fund on the 1st day of October, 1860, and returned to said company after cancellation, under the act of 1859-60, ch. 93, section 2.

J. T. DUNLAP,
Comptroller.
G. P. SMITH,
Pres't Bank of Tenn.
Com'rs of Sinking Fund.

7 Bonds. 67

(Copy.)

EXHIBIT No. 3 TO CAMPBELL WALLACE'S DEPOSITION.

No. 12. NASHVILLE, Tenn., Feby. 5th, 1861.

Received from the East Tenn. and Georgia R. Rd. Two Tennessee State Six per cent. Bonds, each for one thousand dollars, and numbered as follows: Nos. 1,127 and 10,629, reinvestment. These bonds are received on account of the semi-annual of in- 68 terest of the old sink. fund.

J. T. DUNLAP,
Comptroller.
G. P. SMITH,
Prest. Bank of Tenn.
Comrs. of Sinking Fund.

2 Bonds.

69 (Copy.)

EXHIBIT No. 4 TO CAMPBELL WALLACE'S DEPOSITION.

NASHVILLE, Tenn., 2d Nov., 1861.

The Sinking Fund Commissioners have this day cancelled fourteen straight six per cent. coupon bonds of the State of Tennessee, each for one thousand dollars, belonging to the sinking fund of the
70 East Tenn. and Georgia R. Rd. Company, and placed the amount, fourteen thousand dollars, to the credit of said East Tenn. and Georgia R. Rd. Co. The above fourteen bonds thus cancelled were put into the sinking fund of the East Tenn. and Geo. R. Rd. Co. in place of twelve East Tenn. and Va. R. Rd. Co.'s endorsed bonds, and two Nash. and Chatta. R. Rd. Co.'s endorsed bonds previously purchased for account of East Tenn. and Ga. R. Rd. Co.'s sinking fund.

71 G. C. TORBETT,
J. T. DUNLAP,
Sinking Fund Commissioners.

(Copy.)

EXHIBIT No. 5 TO CAMPBELL WALLACE'S DEPOSITION.

72 NASHVILLE, Tenn., Nov. 20, 1861.

Received from the East Tennessee and Georgia Railroad Company, nine Tennessee State six per cent. bonds, each for one thousand dollars, and numbered as follows: Nos. 4,333, 4,334, 5,851, 9,584, 9,086, 7,115, 10,415, 4,332, 2,068. These bonds are received on account of the payment due by said company as sinking fund, when next called

for, and are now cancelled under act of 1859-60, 73
ch. 93.

ISHAM G. HARRIS,
Governor,
J. T. DUNLAP,
Comptroller,
G. C. TORBETT,
Prest. Bank of Tenn.
} *Comr. of Sinking Fund.*

9 Bonds.

(Copy.) 74

EXHIBIT No. 6 TO CAMPBELL WALLACE'S DEPOSITION.

CHATTANOOGA, TENN., June 4th, 1862.

Received from the East Tenn. & Ga. Railroad Co. one hundred Tennessee six per cent. bonds, each for one thousand dollars.

These bonds are received on account of the payment due by said company as sinking fund, and are now cancelled under Act of 1859-60, Ch. 93. 75

ISHAM G. HARRIS,
Governor.

G. C. TORBETT,
Pres't Bank of Tenn.

100 Bonds.

CHATTANOOGA, June 4th, 1862. 76

Received from the East Tenn. & Ga. R. Rd. Company eleven endorsed bonds, each for one thousand dollars, and numbered as follows: 42, 43, 59, 79, 49, 45, 50, 100, 51, 46 and 27. These bonds are received on account of the payment due by said company as sinking fund, and after cancellation re-

77 turned to said company, under Act of 1859-60, Ch. 93, Sec. 2.

ISHAM G. HARRIS,
Governor.

G. C. TORBETT,
Pres't Bank of Tennessee.

I, G. W. Blackburn, certify the above is a true copy of the original, on file in my office.

78 In witness whereof, I have hereunto set my hand and seal of office, this 1st day of February, 1868.

G. W. BLACKBURN,
Compt.

79

80

1

Deposition of Neill S. Brown.

Deposition of Neill S. Brown, witness on behalf of the defendants in the foregoing cases.

The said witness, being duly cautioned and sworn, deposes and says.

My name is Neill S. Brown; am aged 69 years, and am a practicing attorney and solicitor at Nashville, Tennessee. 2

To interrogatory propounded he answers and says, that he was twice a member of the Legislature of the State, was twice or three times elected, and was once Governor of the State.

I bought among the first issue of the bonds issued for the building of the capitol, say in 1849 or thereabouts; I think I bought about $4,000 in such bonds and paid par therefor; I kept them until about the year 1854; I then invested them in a private enterprise at par; I then received from the enterprise my interest therein in bonds issued by the State of Tennessee 3 for agricultural purposes, *at par*, and I afterwards sold said Agricultural Bonds in 1857 or 1858 *at par*.

The prices mentioned as paid for and received for said bonds was the market or ruling price for all bonds issued by the State at the times mentioned, and it continued so for sometime afterwards, and had been at all times from the first issuance down until the approaching rumors of war.

4 I have no interest whatever in any bond issued by the State of Tennessee; I do own one hundred

5 dollars in stock of the East Tennessee and Georgia Railroad, besides which I have no interest in any bond or stock of any railroad company.

I have noticed the quotations of bonds of the State of Tennessee since the war, and do not remember that any difference was made in the quoted market price of the bonds issued to the railroads under the Internal Improvement laws, and other bonds issued by the State for other purposes.

6 (Complainant, by solicitor, excepts to the competency of this evidence, because irrelevant to the issue ; and especially to the last paragraph, because purely hearsay and not the best evidence.

S. WATSON,
Solicitor for the Compl't.)

7 The State of Tennessee owned the Bank of Tennessee, and made it the fiscal agent of the State ; it was so called and so recognized ; all the revenues of the State were deposited with the Bank of every conceivable kind, and it (the bank) paid all the obligations of the State ; sometimes the balance was one way and sometimes the other.

Cross-examination :

The Union Bank of Tennessee was the fiscal agent of the State before the Bank of Tennessee was created. I never had any dealings with bonds except as above stated. 8

And further deponent saith not.

NEILL S. BROWN.

Subscribed and sworn to before me, this 2d September, 1879.

E. R. Campbell,
Examiner.

Deposition of Columbus Powell.

CALVIN AMORY STEVENS 1

vs.

MEMPHIS and CHARLESTON R. R. Co., and others.

Taken Sept. 26th. 1879, at Knoxville.

I am about fifty years of age, and reside in Knoxville, Tennessee. I lived in New York City for 2
four years after the war, from 1865 to 1869. While living in New York City I was a member of the firm of C. Powell, Greene & Co., Bankers and Commission Merchants. My firm sold a large number of the bonds of the State of Tennessee 6 per cent. coupon bonds for account of the East Tennessee and Virginia, Rogersville and Jefferson, Knoxville and Kentucky, now Knoxville and Ohio, Knoxville and Charleston and Mississippi Central Railroad Companies; and in addition to said companies, we sold 3
bonds for individuals and bankers; said bonds were mainly sold in the Board of Brokers, through a broker to a member or members of that board; occasional sales were made to individuals privately. The mode of selling bonds through the Board of Brokers in New York, was and is as follows: whenever we had State bonds for sale on behalf of our customers, whether railroads, private individuals or bankers, we gave an order to our broker to sell Tennessee bonds, 6 per cent. coupon bonds payable to 4
bearer; we did not give him any representation

5 that the bonds were issued to railroads or for what
purpose, nor did we ever give him numbers of the
bonds; our broker would offer said bonds when
Tennessee bonds was called on the list of stocks and
bonds by the President of the Board, and receive
such bids from other members of the board as he
was willing to accept, reporting the sales to our
office when we could deliver according to contract,
as follows, if for cash, deliverable on the day of
sale, if on time, deliverable on the day fixed in the
6 contract, so that neither the broker who bought
nor the person for whom he bought, ever knew any
thing in regard to the bonds, except that they were
Tennessee six per cent. bonds, did not even know
their numbers, or for what purpose they were issued,
nor did he even see the bonds until they were delivered
in final consummation of the sale. Our broker
who sold the bonds did not even know anything
about them except that they were Tennessee 6 per
cents. And the bonds although numbered as all
7 Tennessee bonds were, had nothing on them to indicate
or show for what purpose they were issued,
or to what railroad, except that they specified under
what act of the Legislature they were issued. I
mean in brief, that the bonds were sold as straight
Tennessee State bonds, and that there was no representation,
claim or suggestion made by the seller or
buyer that they carried any lien on the property of
the railroad company in favor of the bondholders.
Bonds were frequently interchanged and loaned between
8 the railroads, so that I myself did not know
to what railroad the bonds were issued which I was
selling.

In all my New York experience, and I suppose I was one of the largest sellers of Tennessee bonds for account of railroads and others, I never once heard the question raised that the bondholders could look to, or had any lien upon the railroad property be-

longing to the company to which the bond was 9
issued. Had frequent conversations with holders
of old and new bonds, who would consult me about
the payment of interest on the bonds by the State,
and in all these conversations the point discussed
was what the sense of the people of the State of
Tennessee as to the payment of the interest on said
bonds, and never heard any suggestion or allusion
to a claim of a lien on the property of the railroad
companies of the State in favor of the
bondholder. 10

I do not think that two millions of dollars is an
overestimate, but rather an under estimate, of the
amount of Tennessee State bonds we sold while in
business in New York City. I mean Tennessee
sixes. The bonds were issued to the railroad
companies by the State just as they applied for them,
taking up the number at the number last issued.
There was no mode of classification as to numbers of
bonds adopted by the State authorities in issuing
them so as to identify and distinguish the bonds 11
issued to railroads, or any particular railroad, from
the bonds issued by the State for any other purpose
than for the railroads. In other words, there was
no set of numbers for each particular railroad, or
for all the railroads, but there was one common series
of numbers for all purposes; therefore it was
impossible for an outsider, seller or broker in New York, to
identify any Tennessee State bond coming to him
there as a bond issued in favor of any railroad.

There was no difference in the price of Tennessee 12
State bonds, as sold on the same day, either for the
East Tenn. and Virginia Railroad, a road of 130
miles in length, solvent, completed, and with full
connections, and the "Knoxville and Kentucky
Railroad," 40 miles, and incomplete and without
connections, "The Rogersville and Jefferson
Railroad," 16 miles in length, and incomplete, and the

13 "Knoxville and Charleston Railroad," 16 miles in
length and incomplete, the three latter all being
insolvent; nor the Mississippi Central Railroad,
complete and with full connections, running 250 miles
across the State of Tennessee.

I have no connection with nor interest in any railroad
of the State, nor their stocks or securities.

It was a well known fact that these short insolvent
railroads received twice as many bonds from
the State per mile as the solvent roads, and
14 yet the bonds on the market sold at the same price,
as my books will show; and I give the following
illustrations of actual sales from my books: we
sold through our broker, in the Board of Brokers
in New York, on Sept. 20, 1866, $80,000 of Tennessee
bonds at 71¾, 72¾, and 73, and we delivered
in consummation of these sales bonds indiscriminately
from the following roads, "E. T. & Va.,"
"Knoxville and Kentucky," and "Rogersville and
Jefferson." This is only an illustration of what frequently
15 occurred, and in one instance sold in the
same manner $100,000, in which the bonds of the Mississippi
Central Railroad were delivered in common
with the bonds of the railroads above mentioned
and at the same price.

The reason for the name of Old and New Tennessee
sixes was on account of the old carrying with
them five past due coupons, when the new sixes
were placed on the call of the stock board; that
custom was continued after the coupons were paid
16 or funded by the State, when the difference in the
market value of the old and new was reduced to a
merely nominal difference.

All six per cent. State bonds issued prior to 1860,
whether to build the Capitol, buy the Hermitage,
pay for the State's stock in banks or turnpikes, or
to railroads under the Improvement Acts, or for
any other purpose, were called old Tennessee sixes,

and without regard to what they were issued for, was a good delivery in the New York market, and at the same price.

Before the war the bonds issued by the railroad companies of Tennessee, with a first mortgage lien on the property of the roads and endorsed by the State, did not bring as high a price in the market as straight State sixes issued to aid the railroads or other purely State purposes. The reason for this is that the credit of the State was so high as through her fiscal agent, the Bank of Tennessee, she promptly paid her interest every six months in New York City. No doubt or apprehension was either felt or expressed as to her ability and promptness to pay her interest; while in the vicissitudes of railroad projects there was always doubt, and no such confidence did or could exist, and notwithstanding the State endorsement, it was secondary and it was felt that in case of default on part of the railroads, the State would delay until the lien on the railroad property in favor of the bondholders was enforced and exhausted before she would discharge her secondary liability.

Wm. G. Swan and I, as directors and fiscal agents of the Knoxville and Kentucky Railroad, went to New York in 1860, and sold some $30,000 to $40,000 of the first State bonds issued to that company; we sold them through brokers on the public market as straight Tennessee bonds; no representations were made by us, nor any inquiries or questions raised as to there being any lien on the railroad in favor of the holders of the bonds sold by us. We never dreamed that such a fact would have enhanced or affected beneficially the market.

And further this deponent sayeth not.

COLUMBUS POWELL.

Deposition of Albert Roberts. 1

Deposition of Albert Roberts, a witness for the defendants.

The witness being first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says, as follows :

My name is Albert Roberts, aged 44 years ; I was one of the publishers of the Republican Banner, a newspaper published in the City of Nashville, Tenn., 2
in the year 1871, and know that notices in the case of the State of Tennessee *v.* The Edgefield and Kentucky Railroad Company *et al.*, as shown in Exhibits A and B, hereto attached, and made a part hereof, were published in that paper as follows :

Exhibit A was inserted in the issue of January 22, 1871, and was continued therein for four weeks. and until and including Feb. 12, 1871 ; and Exhibit B was inserted in the issue of the 16th April, 1871, and was continued for four weeks and until the 8th 3
day of May, 1871.

I have to-day compared the notices with those published in the paper.

ALBERT ROBERTS.

Subscribed and sworn to before
me, this 2d September, 1879.

E. R. CAMPBELL,
Examiner.

Exhibits A and B same as those attached to deposition of Ira P. Jones. 4

Deposition of D. B. Cliffe.

The deposition of D. B. CLIFFE, taken on behalf of the defendants, on notice hereto attached in the case of Calvin Amory Stevens *v.* The Nashville and Northwestern Railroad Co. *et al.* 1

The witness, said D. B. CLIFFE. being duly cautioned and sworn, deposed as follows:

1st interrogatory propounded by Ed. H. East and R. McP. Smith, attorneys for the defendants:

My name is D. B. Cliff; occupation, physician; 2
residence, Franklin, Tennessee; age 56 years. I was appointed Receiver of the Nashville and Northwestern Railroad by Governor W. G. Brownlow, and took charge of said road on the 14th July, 1868, and continued as such Receiver until 21st October, 1869, when I resigned. General Innis was Receiver previous to my appointment of the same road, having been appointed by Governor Brownlow. I operated the road for about thirty days at
a very considerable loss; my recollection is that we 3
lost about $10,000 or $15,000 that month. On the 1st September, 1868, after consultation with Governor Brownlow, I leased the road to the Nashville and Chattanooga Railroad Company, which latter company agreed to run the road and save the State harmless as far as the pay of employees, &c., was concerned. The lease was made because it was impossible to make the road pay expenses. The roadbed, cars, and machinery were in a bad condi-
tion. The hands had "struck," the roadbed was 4
grown up with wild weeds, the tanks were dry, and one bridge had been burned, and the rolling stock was in a bad condition. The employees under the

5 previous Receiver, as also under the old company, had not been paid, and "struck," and threatened to destroy the property of the company, and did burn one bridge above mentioned. The Tennessee River bridge was in danger, and I employed a guard with shot guns to protect it.

The State advanced bonds to me to the amount of $250,000 in bonds (250 bonds) for the Nashville and Northwestern Railroad, and 200 bonds of $1,000 each for the building of the Huntingdon branch.
6 The lessees operated the road during the balance of my receivership, and thereafter the same parties re-leased the same from the Legislature.

The experiment made by me in the running of the said Nashville and Northwestern Railroad was convincing to my mind that the road could not be operated by a receiver without loss to the State. During the month in which I run the road we did repairing to the roadbed but just sufficient to run the trains. A force sufficient to keep it in proper
7 repair would have increased our loss during that time to $30,000, or thereabouts. There was hardly a safe bridge on the road between Nashville and Hickman, a distance of 170 miles. The road was not completed by the company, and the Government of the United States completed the building of the road, a distance of some 40 or 50 miles this side, or east, of Tennessee River, as a military measure. I do not know this fact of my own knowledge, but simply as a matter of current history.

8 (Excepted to by counsel for complainant as hearsay evidence, and therefore incompetent.
S. Watson,
Solicitor for complainant.)

Cross-examined by Sam'l Watson, solicitor for complainant:

My occupation before I took charge of the Nashville and Northwestern Railroad Company as Receiver had been that of physician, and I had also been Receiver for the State of the Memphis, Clarksville and Louisville Railroad Company. I was Receiver of the latter road from January, 1868, to Dec., 1869. I never had any experience whatever, or management, or connection with the running of a railroad before that time. 9

In politics I was in accord with the Brownlow administration. I was appointed without any solicitation to the receivership of both roads. Innis had been the Receiver for about six months previous to my appointment of the Nashville and Northwestern road. 10

I gave my deposition before the committee of the Legislature to investigate the N. & N.-W. R.R. Co. and made a report to the comptroller of the State on November 1, 1869. embracing the month of October, 1869, and in that report I did make use of the words following: "A comparison of the earnings of the road for the last fourteen months shows a steady increase in its business, and gives strong hopes of its ultimate ability to meet the payments due the State on account of interest." 11

This report embraces ten days after I went out of office of Receiver, by arrangement with my successor.

My recollection is that the Nashville and Northwestern Railroad Company accepted the provisions of an act of the Kentucky Legislature extending the liens of the Tennessee bonds issued to that road to that portion of the road lying in Kentucky. 12

(Excepted to by counsel for defendants, because not the best evidence.)

I consider the experience of running the road for one month as Receiver as aforesaid as conclusive to

13 my mind that the road could not be run without great loss to the State, and I would have had to cease the operation of the road after that month's trial for want of funds.

Re-examination :

Colonel Innis, previous to his appointment, was the colonel of a regiment of engineers and bridge builders in the United States Army, called the Michigan Engineers. And immediately before his
14 appointment as Receiver he was the Superintendent of the Nashville and Chattanooga Railroad Company, under Mr. Burns. I had employed under me during my receivership experienced and competent railroad men. The impression I got that the Nashville and Northwestern Railroad Company accepted the provisions of an act of the Kentucky Legislature extending the liens of Tennessee bonds issued to that road, to that portion lying in Kentucky, was obtained while I was Receiver of said
15 railroad.

D. B. CLIFFE.

Subscribed and sworn
to before me, this
29th August, 1879.

E. R. Campbell,
Examiner.

16

Deposition of Joseph W. Drexel.

UNITED STATES CIRCUIT COURT,

WESTERN DISTRICT OF TENNESSEE.

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis and Charleston R. R. Co. 1

vs.

The Memphis and Charleston R. R. Co. *et al.*

2

Testimony and proofs for final hearing on the part of the respondents in the above entitled suit taken under and pursuant to the 67th Rule in Equity as amended, before William H. De Lancey, Special Examiner, duly appointed herein.

52 Broadway,
New York, March 1st, 1880. 3

Deposition taken by consent of Counsel in the above entitled suit before William H. De Lancey, Special Examiner.

(Deposition taken subject to all legal objections of both parties.)

Present—**Chas. H. Tweed,**
Of Counsel for Defendants and Substitution Bondholders. 4

E. L. Andrews,
Of Counsel for Complainants.

5 **Joseph W. Drexel**, a witness produced on the part of the respondents, being affirmed as a witness, testified as follows:

My name is Joseph W. Drexel; my age forty-nine: my residence New York City; no occupation; have retired from business.

1 Q. Before you retired from business, in what firms were you a partner?

A. In the firm of Drexel & Co., Phila., Drexel,
6 Winthrop & Co., of New York, until July, 1871, and of Drexel, Morgan & Co., and also Drexel, Harjes & Co., Paris; I retired from the firms of Drexel & Co., Drexel, Morgan & Co. and Drexel, Harjes & Co., Dec. 31, 1875.

2 Q. While you were a member of those firms did they deal as bankers in the bonds of the State of Tennessee?

A. We dealt in bonds generally, and that, of course, included the bonds of Tennessee.

7 3 Q. Had your New York and Philadelphia firms representatives in the Stock Exchanges of those cities?

A. Yes.

4 Q. Were you familiar with the manner in which Tennessee bonds were dealt in on those Stock Exchanges?

A. Yes.

5 Q. Did you ever know or hear of any Tennessee bonds being bought or sold as carrying a lien upon
8 any railroad in the State of Tennessee to which they might have been loaned?

A. No.

6 Q. Did your firm of Drexel, Winthrop & Co. in or about 1870 become the purchasers of any of the substitution bonds issued by the Nashville and Decatur Railroad Company?

A. We became part purchasers to a large extent in company with R. T. Wilson & Co., A. Iselin & Co., and the New York Guaranty and Indemnity Company of the bonds issued by the Nashville and Decatur Railroad Company at that time. The whole amount of the loan was $2,100,000, and we bought about $1,900,000. 9

7 Q. At the time that your firm became part purchasers of those bonds had you any knowledge of any claim of any holders of bonds issued by the State of Tennessee and loaned to the Nashville and Decatur Railroad Company, or to its predecessors, that they had any lien or claim upon the property of that Company or its predecessors? 10

A. No.

8 Q. Did your firm, in connection with the N. Y. Guaranty and Indemnity Co., issue the advertisement for the sale of those bonds now shown you?

A. Yes, sir, we did—a copy of which advertisement is as follows:

December 31, 1870. 11

FINANCIAL.

SEVEN PER CENT. FIRST MORTGAGE BONDS
OF THE
NASHVILLE AND DECATUR RAILROAD.

The mortgage is for $2,100,000, or only $17,500 per mile, on an old and completed road, showing an established business, from local traffic, mainly more than sufficient to pay its interest as it becomes due, with prospects of greatly enlarged receipts from new connections which are now in progress.

This mortgage was created for the sole purpose of paying a debt due to the State of Tennessee, on terms which would reduce the liability of the road about $600,000. 12

Of the bonds issued under said mortgage $200,000 are held in escrow to abide settlement of a claim of the United States; $300,000 have been purchased by the parties in interest, and the balance of $1,600,000 are offered for sale on favorable terms; the security, in the judgment of the undersigned, being such as to entitle them to perfect confidence.

DREXEL, WINTHROP & CO.,
18 Wall Street.

NEW YORK GUARANTY AND INDEMNITY CO.,
52 Broadway and Exchange Court.

13 9 Q. If the holder of any of the bonds of the State of Tennessee which had been loaned to the Nashville and Decatur R. R. Co. or its predecessors had asserted any lien or claim upon the property of that Company by virtue of those bonds, would you have made the purchase?

A. No, sir.

10 Q. Would you have issued that advertisement
and given the bonds the endorsement of your firm
if you had known of such a lien or claim being as-
14 serted?

A. No, sir.

11 Q. Those bonds were sold by the interested firms, or by some of them, to the public, were they not?

A. Yes.

12 Q. You and the other parties sold them to the
public as first mortgage bonds, secured upon the
property of the Nashville and Decatur R. R. Co.,
as stated in the advertisement issued by your firm
15 and the N. Y. Guaranty and Indemnity Co., did
you not?

A. Yes, sir.

13 Q. Did you afterwards become yourself a purchaser of any of the substitution bonds of the Memphis and Charleston R. R. Co. issued under the purchase of the State lien?

A. Personally I subsequently bought $50,000 of
the first mortgage bonds of the Memphis & Char-
leston R. R. Co., each of which bonds bears an en-
16 dorsement to the effect that the lien previously
held by the State of Tennessee against the road had
been vested in trustees under an assignment from
the State to be held as security for that issue of
bonds.

14 Q. At what price did you buy those bonds and when?

A. To the best of my recollection at 90 to 95 and 17
subsequent to 1877.

15 Q. At the time of your purchase of those bonds had you any knowledge of any claim on the part of any holders of Tennessee State bonds loaned to that R. R. Co. or any other R. R. Co. in Tennessee that they had any lien or claim upon the property of that or any other R. R. Company by virtue of those bonds?

A. I say most emphatically, no; I would not
have entertained the proposition for a moment if I 18
had known of any such claims.

16 Q. Are you still a holder of those Memphis and Charleston bonds?

A. I am.

Cross-examination by Mr. Andrews:

17 x Q. Where did you reside at the times mentioned in your direct examination?

A. For part of the time I resided in Philadelphia, 19
but during these transactions I was in New York the major part of business hours, and in the summer of 1871 I came to New York to reside permanently.

18 x Q. Did you purchase $1,600,000 of those substitution bonds without getting any legal advice as to their title?

A. I did not know them under the name of "substitution bonds," but we bought about that amount
in connection with other parties of the first mort- 20
gage bonds of the Nashville & Decatur Railroad. We took all the precautions we usually did in buying bonds for ourselves, and had we felt the necessity of having any legal assistance we would have called it in. I do not recollect whether we felt any such necessity or not or whether we took legal advice or not. In case we thought there was necessity for

21 legal advice we handed it to our regular attorney.
Mr. Robert Winthrop of my firm would be more
likely to know than I.

19 x Q. Who brought these securities first to your notice.

A. Mr. R. T. Wilson, so far as I recollect.

20 x Q. Did you not have frequent conversations with Mr. Wilson on the subject of these securities.

A. I recollect talking with Mr. Wilson about
them after the issue of the advertisement after I
22 came to New York. Mr. A. J. Drexel had more
frequent conversations with Mr. Wilson previous to
the purchase.

21 x Q. Did Mr. Wilson at any of the times mentioned in your direct examination exhibit to you the opinion of Judges Davies and Davis, to the effect that the Tennessee State Bonds were paramount liens upon the railroads to which they were issued, or speak to you of that opinion in any way.

A. No, sir; he never did. He could not have de-
23 scribed them as first mortgage bonds had he done
so.

22 x Q. Did you have any conversation with Mr. Iselin while the bonds were being sold.

A. Yes.

23 x Q. Did he exhibit or speak of that opinion to you?

A. No, sir; he did not.

24 x Q. Please produce a copy of any opinion which your firm received upon this subject?

24 A. I will if such a one ever existed or is now in
existence.

Re-direct: 25

25 Q. Did not Mr. Donaldson, as Chairman or Mr. Williams, as Secretary of the Committee of Tennessee bondholders or any Tennessee bondholders ever exhibit to you any such opinion of Davies and Davis, or any opinion to that effect?

A. No.

26 Q. If any claims on behalf of Tennessee State bondholders that their bonds constituted a paramount lien upon the property of the railroad company to which they were loaned had been communicated to your brother Anthony J. Drexel, or to your partner Mr. Winthrop, would they in the usual course of business have communicated that fact to you before the tranaction was consummated? 26

A. Yes.

Re-Cross:

27 x Q. Could you not have obtained a printed copy of Davies and Davis' opinion had you sought for it? 27

A. I neither knew then nor do I know now that such an opinion existed. I never heard of it till within a week.

JOS. W. DREXEL.

Subscribed and affirmed before
me, this 1st day of March,
A. D. 1880.

WILLIAM H. DELANCEY, 28
Special Examiner.

29 I, WILLIAM H. DELANCEY, Special Examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the above-entitled suit, in the city of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at my office, No. 52 Broadway, in the city of New York, by the counsel and witness aforesaid. That the said witness was duly affirmed and cautioned, in
30 the above-entitled suit and exinamed, and the deposition was reduced to writing, and read to the witness, and by him subscribed in my presence.

Dated March 1st, 1880.

WILLIAM H. DELANCEY,
Special Examiner.

31

32

Deposition of Vernon K. Stevenson.

UNITED STATES CIRCUIT COURT,

WESTERN DISTRICT OF TENNESSEE.

1

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bondsof Tennessee, issued to the Memphis & Charleston Railroad Company,

against

Memphis & Charleston Railroad Company *et al.* 2

52 Broadway, August 12, 1879.

Hearing to take the deposition of Vernon K. Stevenson, pursuant to notice.

Present—Mr. Andrews for Complainant.
Mr. Humes for Defendant.

It is consented and agreed by both parties
that the deposition of the witness, Vernon K. 3
Stevens, shall be taken but once, and is to apply to each of the above-entitled actions, and be considered as testimony in each.

It is agreed by counsel that this deposition need be taken but once, and that it may be read as evidence in all the causes in which the
Louisville & Nashville Railroad Company, 4
either at Nashville or Memphis, is party.

Vernon K. Stevenson, being first duly cautioned and sworn in each of the above entitled actions, deposes and says:

Direct-examination by **Mr. Baxter**, Defendant's Counsel:

Q. What is your name, age, residence and occupation?

A. My name is Vernon K. Stevenson; I was 67 years old the other day; I reside in the city of New York; I am President of the Real Estate Trust Company, and in some respects agent for railroads.

Q. Were you ever connected at any time with any of the railroads of Tennessee; if so, with what railroad, when and in what capacity?

A. I was connected with the railroads of Tennessee. I was first Commissioner for the Nashville and Chattanooga Railroad under the charter. I was then first President of it, and continued so for 20 or 30 years. I was then President of the Winchester and Alabama Road, and so continued until its completion, when I resigned. I was then President of the Nashville and Northwestern Road, and continued so until after the close of the war. I was President of all three at once, I think; that is, the succession, I came into the Presidency of them. I was President of the Nashville and Chattanooga Road from about 1844-5 to 1865, and I was President of the Northwestern Road. I don't recollect exactly the time I became President of the Winchester and Alabama Railroad. It was after the first organization had failed to build the road. It was broken down, and I took it up and finished it in a couple of years, in connection as a branch of the Chattanooga Road, in connection with it and its interests. The Northwestern Road, I think, I took possession about 1858-9 as the President, but I don't recollect accurately the time. It had been under contract and broken down also. I took it up and finished it in connection with the Nashville and Chattanooga Road.

Q. Did you as president or as the officer of any 9
of said railroad companies receive any bonds from
the State of Tennessee loaned to said companies by
the State under the Internal Improvement Law of
that State?

A. Yes, sir, I did.

Q. In the negotiating or disposing of said bonds did you sell them directly to purchasers or were they sold through bankers and brokers generally?

A. Well, I think those on the Winchester and
Alabama Railroad were all sold through bankers 10
and brokers, perhaps some of them might have been
delivered to parties we purchased iron of and
foreign parties. My impression is that they were
pretty much all disposed of through bankers or
brokers, either by the company directly or through
parties that they dealt with.

Q. In negotiating bonds were any representations
made by the company or their authorized agents
to the effect that the bonds were liens upon the
roads in favor of the holders of the bonds? 11

(Objected to as immaterial).

A. Never that I knew of—never in any case.
Straight bonds sold for more than the endorsed
bonds; that fact had been tested by the sale of
bonds with roads that I was connected with. The
endorsed bonds by the State for railroads sold for
less than straight bonds in all cases, and
therefore parties selling bonds and parties buying
bonds were each mutually anxious that no idea of 12
lien should be had on either side. There was a difference
in price of one to two or three per cent. on
all bonds endorsed by the State for the roads in the
State and straight bonds issued by the State without
any liens upon anything.

Q. Do I understand that bonds of the State of Tennessee which had been issued to pay for the

13 subscription of the State for stock in turnpikes, having no lien upon anything, sold for more than bonds of such railroad companies as the Nashville & Chattanooga Railroad and the East Tennessee & Georgia Railroad endorsed and guaranteed by the State?

A. I do; the difference was one to three per cent. never less than one, that I ever recollect of, and as high sometimes as three per cent. difference.

Q. In selling State bonds loaned to railroads in 14 the New York market, what endorsement or system of marking, if any, was resorted to by which the bonds could be known in the stock market as having been loaned to any particular company?

A. There was no such endorsement that I ever heard of; none on any of the bonds that I had anything to do with.

Q. What was the difference in price, if anything, between the straight bonds loaned to the railroads under the Internal Improvement Act of 1851-2, and 15 straight State bonds that had been issued to build the Capital, buy the Hermitage, and for other purely State purposes?

A. Not one particle; they all sold precisely the same. No question was ever asked until after the war, as to any bond issued by the State being more valuable than another bond issued by the State.

Q. What was the difference in price, if any, between State bonds issued to important and solvent roads and to those that were issued to unimportant 16 and insolvent roads?

A. There was not a particle of difference; and no difference in the price after the roads became insolvent even after the war. Nobody ever asked or cared whether the bonds were issued for the Nashville & Henderson Road or whether issued for the East Tennessee & Virginia or Memphis & Charleston Road, which was then one of the best railroads in the

State; nobody asked any questions and never 17
thought who they were issued to, or how they were issued.

Q. Was there any record or source of reference kept here in New York by which purchasers of Tennessee bonds could ascertain to what particular companies they had been issued?

A. Not that I ever heard of; never heard any questions asked. If you called Tennessee bonds, that's all you said, it's a Tennessee bond. There
was no distinction that I ever heard of. 18

Q. When was the first information given to the public by which they were enabled to select out the bonds issued to particular railroads?

A. Well, I don't know of my own knowledge about that, I never heard of it until a few years ago.

Q. What is the difference now on the Stock Board in New York, between the price of Tennessee bonds loaned to railroads and those issued by the State for
other purposes? 19

A. None that I know of; I don't know a particle of difference.

Q. What is the difference in price now between bonds of the State loaned to solvent and important roads and those loaned to insolvent and unimportant roads?

A. None at all that I know of; I don't think the question is asked in dealing in them even to-day, at least I have not known of its being asked as to
what roads the bonds are issued to. 20

Q. Were the bonds loaned to different railroad companies generally disposed off as soon as issued, were they in some instances held for greater or less periods of time by the companies?

A. Well, all the strong roads held their bonds; they earned them before they got them, and they paid what the State required to be paid before they

21 got them, and disposed of them generally as neces-
sity required future payments to be met, and gen-
erally held some all the time. One company I was
connected with held its bonds and held over bonds
when the road was finished. When I resigned as
President I turned over the bonds to the Board that
was left over, with the North-Western Railroad
Company that I was building, and it ought to have
been pretty hard pressed, as we took it broken
down, and yet we always had more or less bonds on
22 hand. From the time of receiving until the next
time of receiving we almost always had bonds on
hand, sometimes a good many.

Q. Between the time that a company would receive bonds from the State and the time that it would negotiate these bonds to outside parties, was the interest paid by the company to the State or not?

A. Yes, always.

Q. What was the price of Tennessee State bonds
23 when the Internal Improvement Act of February,
1852, was passed. Were they at or above or below
par, and how much?

A. I don't recollect accurately; my impression,
generally, is that the bonds were never below par
during the building of the road except, perhaps, in
the Panic for a very few weeks. They were always
about par, or a little above. Certainly that was so
about 1852, and from that to 1854, 1856, and 1858.
Perhaps 1857 is the time I said there was a panic,
24 and the bonds might have been for a little while
below par, but I don't think they continued so
long.

Q. When railroad companies would receive bonds from the State under that law, would they keep any list or memorandum of the numbers of the bonds received by them so as to identify them and keep trace of them?

A. No; not for that purpose, but whenever any 25
were shipped I always had the numbers taken until I knew when they were received so as to identify them in case they were stolen or lost on the way.

Q. I mean by my last question was any such record kept with a view of being able to trace the numbers of the bonds so as to know what bonds to pay off?

A. No, sir; you paid in any that you had; you paid in just as you chose; bonds and coupons were indiscriminately paid in; they would be paid 26
in without regard to whether they belonged to bonds issued to them, or any other bonds, unless it was endorsed bonds. We always paid identical endorsed coupons and we paid identical endorsed bonds in redeeming them, because our immediate liability was on them, but the other bonds we never took any charge of, because we did not consider there was any lien on them; we never undertook to pay the particular bond issued to us, but whenever it came to paying endorsed bonds, they were very 27
careful to take up bonds that were endorsed for them, and so with the coupons, that is they paid the coupons that the State endorsed for them.

Q. When railroad companies of Tennessee would pay the interest, which they had agreed to pay, to whom did they pay it?

A. They paid it to the State.

Q. Through whom?

A, To the Bank of Tennessee. It was a State bank, belonging to the State, and its business was 28
geaerally done through that bank. The Bank of Tennessee was always the fiscal agent of the State of Tennessee.

Q. When a railroad company would pay in a given amount of money to the Bank of Tennessee for interest, would it designate to the bank the particular bonds or coupons upon which that money

29 was to be paid, or did it just pay in so much money
on account of interest due from the company to the
State?

A. Well, the companies knew always what they
had to pay, and sometimes they would go and pay
it. Say the company owes this to the State for in-
terest on the bonds issued to it; sometimes they
would pay in part to the State and the State would
let it run a little, but we would pay it all in from
time to time, but it was never paid on any particu-
30 lar bond; it was paid as so much interest due the
State.

Q. Who paid out this money and took up the coupons of the State?

A. The Bank of Tennessee. I suppose the money was paid into that bank, who kept the coupons as vouchers to show that they had been paid.

Q. Did any railroad company with which you
had any connection, or any other company with
whose course of business you were acquainted, have
31 any agent either at Nashville, New York or Phila-
delphia to pay the interest on straight State Bonds,
that had been loaned to them?

A. No, sir, never.

Q. Did any bondholder of Tennessee ever present to any railroad company, so far as you know, any coupons of the State Bonds loaned to such company and ask payment thereof from such company?

A. Never that I heard of.

Q. These coupons which had been paid and taken
32 up by the State; were they kept by the State or
returned to the companies?

A. I don't recollect of any being returned to the companies.

Q. Are you acquainted with the circumstances that led to the change in the Internal Improvement system of Tennessee from endorsing bonds of the companies by the State to loaning bonds of the

State to the companies? Please state fully all con- 33 nection you had with the change of the system, if any; and state if you know what were the motives and reasons which induced such change?

A. It was brought about on the part of the railroad companies to have straight bonds because they sold for more, and the State did not care whether they endorsed or issued straight bonds, they expected to be responsible in either case, and, as at that time they did not issue any more than they were well secured in, it made no difference to the members 34 of the Legislature which they voted for.

Q. Where were you living in 1869 and 1870?

A. In New York.

Q, What business were you engaged in then?

A. I think I was in the real estate business—real estate agent here. I went into business here to start my son. He was anxious to go into law or merchandizing and he did not care which. I continued in business with him four or five years, until 1871 or 1872, when I withdrew from his business, 35 and he is carrying it on now.

Q. Was the fact known in New York in 1869 and 1870, that the railroad companies of Tennessee were paying off their debts to the State by issuing company's bonds and using the proceeds to buy up bonds of the State to retire their debts?

A. It was very publicly done. The bonds taken for that purpose bought and talked about all the time, swapping, exchanging, twisting to get the bonds to pay it it was a very notorious matter here, 36 as much so as anything, because there was so much of it; I have no doubt every bondholder was applied to more than once and the explanation made what they wanted with the bonds.

Q. Was the fact known in New York in 1870 and 1871 that the State of Tennessee had filed a bill at Nashville, claiming that the lien belonged to the

37 State, and asking to sell such a delinquent railroad
as had been unable to buy up bonds of the State
enough to pay off their debts?

A. It was a matter generally understood among bondholders, and it was thought by them that the bonds would be so benefited by taking so much off the market.

Q. What proportion of the entire bonded debt of Tennessee is held in New York, do you suppose?

A. Four-fifths, probably; I should think here
38 and in European agencies, but I don't know accurately.

Q. Did you ever hear any holder of Tennessee bonds complain of the action of the State and of the companies in retiring their debts, or selling out their railroads until the litigation in this case?

A. No, sir; never.

(This entire examination is taken subject to
legal objection, and complainant's counsel
39 moves to strike out all the answers based
upon hearsay, and not upon personal knowledge, and each and every of them.)

Cross-examination by Mr. Andrews, complainant's counsel, begun:

1 x Q. Now, Mr. Stevenson, you state that you are an agent for the railroads in this city. Will you please state what railroads you are agent for?

40 A. The Nashville & Chattanooga road and its branches.

2 x Q. Are you a holder of any of the securities of the Nashville & Chattanooga road?

A. I hold some few of the securities, but not many.

3 x Q. Do you own securities on any other Tennessee railroads?

A. No, sir.

4 x Q. Are you a holder of Nashville & Chattanooga securities, and to what amount? 41

A. I hold very little of it.

5 x Q. How much of the stock?

A. Well, I hold quite a large amount of stock of the Nashville & Chattanooga and St. Louis.

6 x Q. That is one of the roads against which bills are pending by Tennessee bondholders for the enforcement of their statutory liens, is it not?

A. Yes, sir.

7 x Q. During the time you were an officer of the Tennessee railroads did you ever have occasion to give a receipt to the State of Tennessee or its officers for bonds of the State received by your companies? 42

A. I think I have.

8 x Q. Do you know whether or not, as a matter of fact, those receipts given by you did not specify the numbers of the bonds received by your companies?

A. I don't recollect; I think it very likely, but I don't recollect. 43

9 x Q. I understand you that the companies over which you presided I think you were President?

A. Yes, sir.

10 x Q. Did you not keep a record of the numbers and descriptions of the Tennessee bonds received by them?

A. I don't recollect that they did; I may possibly be mistaken in that; their books will show more correctly.

11 x Q. You are not sure they did not keep such a record? 44

A. No, I am not sure whether they kept a record or not; they kept a record when they shipped the bonds.

12 x Q. I understand that you personally participated in the negotiations by which your Companies disposed of Tennessee bonds to the first

45 takers. I think that is a correct statement of your testimony?

A. In some cases, not generally.

13 x Q. Now in those cases in which you did personally participate in negotiating, I understand you that it was desired by the purchasers of those bonds that there should be no lien to protect those securities?

A. No, I have not said that at all.

14 x Q. I give your exact words?

46 A. I stated that it was mutually desirable by the parties, and gave as the reason that the bonds sold for less.

15 x Q. Did you ever receive any indication from any purchaser of Tennessee bonds that he did not wish to have a lien to secure the bond that he was about to purchase?

A. I don't think I ever heard the question to come up in any shape except when the bonds were being gotten up because nobody ever asked for a lien.
47 When bonds were being gotten up the straight bonds issued to the roads would bring more, and as that was a matter which would meet the wishes of the buyer I presume they would have the same feeling as the seller, as they sold for more.

16 x Q. Did the straight bonds issued by the State of Tennessee, prior to the General Internal Improvement law of 11th February, 1852, sell above par or at par. I mean all of them; and was the credit of the State of Tennessee at that time entire unim-
48 peachable and unimpeached?

A. I don't recollect of their ever having sold under par. I don't think they sold for less than par, and if they did it was for a very short time and for a very small amount.

18 x Q. How did the State credit of Tennessee stand then?

A. I don't think any State stood better than Tennessee.

19 x Q. Did the straight bonds of the State of Tennessee, issued prior to the year 1851, and so in the year 1850, and during a part of 1851, until the fall or winter, did they not sell at a better price and command a higher credit than the State bonds issued after the Internal Improvement Law was passed? 49

A. I think not; if there was any difference it was a very slight difference and was not regarded; it had no effect at all.

20 x Q. Then I understand you that the State bonds issued after the General Internal Improvement Law sold for a better price than those immediately preceding its passage? 50

A. I don't think it had any effect. The general impression here was that the State was secured and therefore the large volume of bonds issued did not affect its credit.

21 x Q. What is the lowest price you think Tennessee bonds sold at; I refer to the years 1850-'51,

A. I do not recollect the bonds selling below par, 51 but not having very much connection I may be at fault in the matter. After the bonds were issued I had connection and I think I recollect pretty accurately.

22 x Q. Now you were an officer of these railroads, Mr. Stevenson; how many Tennessee bonds could be floated—were floated at par before the passage of the act of February 11th, 1852, during 1850 and 1851, easily and without difficulty?

A. You can tell if the State was giving away 52 bonds there would be many afloat, but if the State were issuing bonds where it was secured, as the early bonds were secured and all well secured, they could be issued without impairing its credit, and it was the knowledge of that fact that prevented the impairing its credit.

23 x Q. Did you know, or ever hear, or ever read,

53 that the act of the Tennessee Legislature passed on the 11th February, 1852, under which I understand that your companies received bonds, contained these words: "That so soon as the bonds of the "State shall have been issued for the first section "of the road as aforesaid, they shall constitute a "lien upon said section so prepared as aforesaid "* * * and the State of Tennessee upon the issuance of said bonds, and by virtue of the same "shall be invested with said lien or mortgage
54 "without a deed from the company for the payment "of said company of said bonds with the interest "thereon as the same becomes due."

A. I had a great deal to do with the getting up of that law, and was by when every word was scanned, talked and reckoned about. Mr. Frank Fogg wrote it. He was a brother to my brother-in-law; and I stumped the State to get it passed; we could not get it passed before, and I went to the counties where the opposition was and spoke
55 against the politicians and passed that law.

24 x Q. Did you ever hear of an Act passed at the same session of the legislature, about three weeks and a half before the passage of this general law by which the issue of State bonds to the East Tennessee and Virginia Railroad for building the bridges was authorized?

A. I had very little to do with that; I believe that there was such an act passed for one road.

25 x Q. Do you know what model was taken for
56 drafting this General Improvement Law?

A. We took the the model from the earliest roads in South Carolina in getting up our charter.

26 x Q. Now, as you have read the passage I have just quoted from that law, how could you state in your direct examination that the bonds were never considered, if I am correct in quoting you, liens upon these roads?

A. In drawing up that act it was solely intended 57 to secure the State, and the law was made as distinctive as possible in that direction to secure the State only.

27 x Q. What did they mean, then, that the bonds should constitute liens?

A. Very well; the State issued bonds, and the State was liable for the bonds.

28 x Q. Did the Bank of Tennessee ever lend any of the companies with which you were connected, moneys to pay their interest with on these bonds? 58

A. I don't recollect that they did; they may have done so, but I don't recollect; I was director in the Union Bank from the time it broke down in 1837 until the war; my business was generally done there, and any borrowing was done at the Union Bank; but we did not do much.

29 x Q. Did the State bonds your railroad received contain any reference to any legislation of the State of Tennessee under which they were issued? 59

A. I don't recollect, sir; not accurately to speak of, because it is a matter I had not charged my mind with.

30 x Q. You state that the Tennessee bondholders made no objection to the act of the Legislature of 1869–70; do you not know that a committee of Tennessee bondholders about that time obtained the opinion of the late Chief Justice of the State of New York, and of another eminent lawyer in this city, to the effect that that legislation of Tennessee impaired their interests in the liens on the railroads? 60

A. No, sir. I knew nothing of it at all. A great many bondholders came here, and I was asked to the meetings about that time and afterwards. They were the large bondholders.

31 x Q. Do you not know that that opinion was printed, and publicly and widely circulated?

61 A. No, sir. Never saw it. I don't think I ever heard of it even. It may have been done, but I never heard of it before.

32 x Q. You mention that there was a great deal of buying and changing and operating, or words to that effect, in Tennessee State bonds, or by third parties under these substitution laws. Were you interested in railroads at that time?

A. Yes, sir. I was interested in the Nashville
and Chattanooga and St. Louis Railroad. I held
62 stock in it for thirty years.

33 x Q. You are not an officer now?

A. No, sir.

34 x Q. Were you consulted in reference to the purchases of bonds by any of these companies?

A. Yes, sir.

35 x Q. What companies?

A. The Chattanooga road had to purchase bonds to pay for the Northwestern road, and that led me in contact with buyers of other roads in Tennessee.

63 36 x Q. I suppose it was your object, and that of your coadjutor, to purchase Tennessee bonds at as low a price as possible, for the purpose of this substitution?

A. Well, I don't understand exactly your meaning. We gave the market prices and never made an attempt to interfere directly or indirectly. I think our company paid as high an average as 70% on the dollar for bonds they bought for the Northwestern Railroad.

64 37 x Q. Is that positively true of other railroad companies who obtained State bonds at that time?

A. I can speak for none but my own company. We paid the market prices; never, in any case, did we undertake to put bonds down; and the whole history of the Nashville & Chattanooga Road is that of integrity and honesty and principle from the bottom to the top in everything.

Adjourned to August 13th, at 11 A. M.

AUGUST 13th, 11 A. M. 65

Adjourned to August 18th, 1879, 12 M.

AUGUST 18th, 1879, 12 M.

Cross-examination closed.

Re-direct examination by W. Y. C. HUMES, Esq.

The witness deposed as follows:

During the whole time of my connection with the Nashville & Chattanooga Railroad Company, 66 Northwestern Railroad Company and Winchester and Alabama Railroad Company, I was a resident citizen of Tennessee, and gave my entire time to the business of those roads; I did make all important contracts and payments for them and managed their finances—I received, and controlled and disposed of the State bonds issued to said railroads; those bonds were not generally sold by me personally to purchasers, but were forwarded by me to bankers and brokers in New York, for sale. 67

V. K. STEVENSON.

Subscribed and sworn to before me, this 18th day of August, 1879.

WILLIAM H. DELANCEY,
Notary Public.
Westchester County, acting
in New York County under
and by virtue of 68
chapter 807, of the
Laws of 1873, of the
State of New
York.

Deposition of J. G. M. Ramsey.

Caption same as in Craig's and Jackson. 1

I was eighty-two years old on the 25th day of March last, and have resided all my life in or near Knoxville, Tenn., except when I have been absent temporarily. I have been a practicing physician during my life; I have been president of several different banks, and among others of "The Tennessee State Bank", at Knoxville. I was appointed by Governor Trousdale, in 1851, the agent of the State of Tennessee, to receive for the East Tennessee and 2
Georgia Railroad Company, three hundred and fifty (350) State of Tennessee coupon bonds, payable to blank or bearer, bearing six per cent interest, evidenced by coupons attached to the bonds, payable semi-annually in the City of New York; each bond was for $1,000, and had forty years to run to maturity. The duties of my agency were to sell the bonds, and apply the proceeds to the ironing and equipping of the road, as required by the Act. I was appointed to and did act as the agent of the 3
State of Tennessee and not of the railroad company. I went in person to Baltimore, Philadelphia, Boston and New York, to sell these bonds,—and sold in the New York market two hundred and forty-seven of them for cash, at rates varying from 103¼ to 104½, that is from 3¼ per cent to 4½ above par. I sold these bonds as straight Tennessee State Bonds, and procured the favorable price which I obtained for them by representing to them and showing from the Comptroller's report, that the indebtedness of the 4
State of Tennessee, amounting to only three mil-

lions of dollars ($3,000,000) one half of which was an interest paying stock; that is the State's stock in the Bank of Tennessee and the Union Bank, and by representing also the resources of the State, the extent of its territory, the fertility of its soil, and the character of its people, and its climate, its agricultural products, and its mineral resources. I never mentioned or represented that the bonds were secured by any statutory lien on the property of the road in favor of the bondholder, nor did any broker ever ask me any such question or make any such claim. I afterwards sold the balance of 103 bonds at par. These bonds were all sold prior to the year 1852, and during the year 1851. The 103 bonds which were last sold were sold at par or a little above. The Bank of Tennessee, of a branch of which at Knoxville I was President, was the fiscal agent of the State, and belonged wholly to the State, received revenues and made its disbursements in the payment of its judicial and executive officers, and in the payment of its coupons on its bonds. The proceeds of the bonds I personally disbursed. I have no connection with or interest in the railroads of the State of Tennessee, their stocks or their bonds.

And further deponent saith not.

(Signed) J. G. M. RAMSEY.

(Excepted to for irrelevancy.)

Deposition of B. O. White.

CIRCUIT COURT OF THE UNITED STATES,

WESTERN DISTRICT OF TENNESSEE.

1

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement bonds of Tennessee issued to the MEMPHIS & CHARLESTON R. R. Co.,

vs.

THE MEMPHIS & CHARLESTON R. R. Co. *et al.* 2

Testimony and proofs for final hearing taken on the part of the respondents in the above-entitled suit, under and pursuant to the 67th Rule in Equity, as amended, before William H. DeLancey, Special Examiner, duly appointed herein. 3

NEW YORK, March 2, 1880.

Present—Mr. TWEED for respondents.
Mr. ANDREWS, for complainants.

(Deposition taken subject to all legal objections of both parties.) 4

B. O. WHITE, a witness produced on the part of the respondents, being duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says:

5 1 Q. What is your name, residence, occupation and age ?

A. B. O. White ; I reside on Staten Island ; am Secretary of the N. Y. Stock Exchange, and am of full age.

2 Q. Are you a member of the N. Y. Stock Exchange, and how long have you been so ?

A. I am and have been for a quarter of a century.

3 Q. Are you familiar with the method of buying
and selling State bonds on the Exchange, and how
6 long have you been so familiar ?

A. I am and have been ever since I was a member, and also before while I was a clerk with bankers in the street as far back as 1849.

4 Q. State if you know how Tennessee State bonds were bought and sold on the Exchange and in the New York market ?

A. They are sold as "Old Tennessees," "New
Tennessees," and "New Series." Before the war
they were sold as "Tennessee 6's" and "Tennes-
7 see 5's." I never heard of their being sold in any
other way.

5 Q. Was any Tennessee six per cent. bond or Tennessee 5 per cent. bond a good delivery for purchases made in the regular way on the New York Stock Exchange of either class of these bonds from 1852 to the outbreak of the war ?

A. All I can say is the same as the answer to the last question.

6 Q. When Tennessee State bonds are bought at
8 the New York Stock Exchange can the purchaser
know for what purpose the bonds he is purchasing
were issued, whether to railroads or for building the
Capitol, or for the Bank of Tennessee, or for turn-
pikes, or for any other purpose ?

A. He cannot as called and dealt in in the market.

B. O. WHITE.

Subscribed and sworn to before me, } 9
this 10th day of March A. D. 1880. }

WILLIAM H. DELANCEY,
Special Examiner.

I, WILLIAM H. DELANCEY, Special Examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the above-entitled suit, in the city of New York, do hereby certify that on the several days named in 10 the deposition hereto annexed I was attended at my office, No. 52 Broadway, New York City, by the counsel and witnesses aforesaid. That the said witness was duly cautioned and sworn in the above-entitled suit and examined and the deposition was reduced to writing and read to the witness, and by him subscribed in my presence.

Dated March 10th, 1880.

WILLIAM H. DELANCEY,
Special Examiner. 11

12

Deposition of John M. Fleming. 1

THE UNITED STATES OF AMERICA, }
Eastern District of Tennessee. } ss.:

Be it remembered, that on the 26th day of September, 1879, before me, Clerk of the United States Circuit Court for the Eastern District of Tennessee, at my office, personally came JOHN M. FLEMING, witness on the part and behalf of the defendants in a certain suit now depending, and undetermined, in the Circuit Court of the United States for the 2
Western district of Tennessee, wherein Calvin Amory Stevens, *et al.*, on the part of the holders of Internal Improvement bonds of Tennessee, issued to the Memphis & Charleston R. R. Co., are complainants, and the Memphis & Charleston Railroad Company *et al.* are defendants, to depose and the truth to say in said suit. And thereupon the said John M. Fleming, being of lawful age and sound mind, being by me first cautioned and sworn to testify the truth. the whole truth, and nothing but the truth, touching the matters in controversy in said suit, did, in answer to the interrogatories and cross-inter- 3
rogatories propounded to him, depose and say as follows:

1*st Inter*. What is your place of residence, and how long have you resided here?

2*d Inter*. Have you any connection with or interest in any of the railroads of the State, their stocks or securities?

3*d Inter*. How long have you been a resident of the State, and what has been your occupation since you were 21? 4

4*th Inter*. Were you a member of the General

5 Assembly of the State of Tennessee during the years 1869 and '70, and what official position did you hold in that Assembly?

5th Inter. State the facts, reasons and public sentiments of the State which caused that General Assembly to pass the Act of January 20th, 1870, amendatory of the Act of 10th of March, 1869, enabling the railroads to retire their debts to the State and also the Act for the sales of delinquent roads at the suit of the State?

6 *6th Inter.* State whether any corrupt influences within your knowledge were used by the railroad companies, or their officials, or any of their agents to induce that legislation?

7th Inter. State who were appointed Commissioners of the State by the bills to foreclose the delinquent roads, and why were the three men elected who were?

8th Inter. State any other fact or facts which you may know which will throw light upon the inquiries 7 already propounded to you.

Answer to *Inter.* 1. I reside in Knoxville, and have lived here since May, 1855.

Ans. to 2d. None whatever.

Ans. to 3d. I was born in Tennessee, and with the exception of ten or twelve years during my boyhood, have lived within the State all my life. I am forty-six years of age. Since attaining my majority my occupation has been that of an editor and 8 lawyer; have been twice a member of the State Legislature, and for two years was State Superintendent of Public Instruction. For about twelve years, closing December, 1878, I was editor of a daily political paper in Knoxville.

Ans. to Inter. 4. I was a member of the General Assembly of the State of Tennessee for 1869–70, and a portion of 1871, and held the official position of Chairman of the House Committee on Judiciary. 9

Ans. to Inter. 5. In answer to this interrogatory I can state in general terms and somewhat in detail "the facts and reasons" that influenced my own action as a member of the General Assembly, and, as I believe, the action of those of other members constituting a majority of the body with whom I co-operated in effecting the legislation referred to.

The General Assembly of 1869-70, when it met in October, 1869, found the State of Tennessee in a deplorable financial condition. The political and 10
social condition of the State from the close of the war up to that time may be described as having been one of disorder. The people were much and widely divided in sentiment, and the majority, for political reasons, had been deprived of the right of suffrage by State Legislature enactments. Pending this state of affairs the Legislature had made very liberal appropriations to works of internal improvements (at the instance, it is proper to say, in many cases of the disfranchised element), so 11
that on the first Monday in October, 1869, when the General Assembly met, it was found that our State debt, actual and contingent, had swollen to the appalling volume of about $40,000,000 to $42,000,000. The State Treasury was empty, the resources of the State for purposes of revenue were very much reduced, in consequence of the demoralization of our labor system and other causes, and the people were neither in a condition nor humor to submit to a heavy rate of taxation. 12

The State had made default in the payment of interest the previous July, and its bonds in consequence were much depreciated in the financial markets. The General Assembly found itself confronted with the alternative of providing for the payment of the interest on the debt, or of repudiating or indefinitely postponing it in whole or in

13 part. The idea of repudiation was not seriously
entertained by the majority of the body, and yet
it seemed utterly impracticable to provide for the
interest upon the face of the debt as it then stood.
To reduce the debt, therefore, to a manageable condition
became a study. Upon investigation only
about $120,000 of bonds were ascertained to have
been illegally and fraudulently issued, and the payment
of those were interdicted. The validity of
the remainder of the debt was practically recognized,
14 and the Legislature went to work to so take
care of the debt as to preserve the honor of the
State. An examination of the general situation
disclosed the fact that a number of railroad companies
to which liberal loans of bonds had been
made had become hopelessly insolvent. They had
ceased to pay interest on the loans, their roads were
unfinished and in the hands of Receivers appointed
by the Governor, under the terms of the General
Internal Improvement Acts. These roads, instead
15 of paying expenses, were a burden upon the State
Treasury. The rolling stock was wearing out without
hope of replenishment, and the roads themselves
rapidly going to decay. I had, myself, for several
months before my election advocated through my
newspaper the sale of all the defaulting roads as a
measure of good State economy, and I was the author
of the original bill providing for their sale.

My recollection is that the original bill, which
was by no means perfect, but only designed as the
16 basis upon which to elaborate a more perfect bill,
was drafted by me in my own room, and offered in
the House, without consultation with any one. The
original bill was referred to the Judiciary Committee,
to which committee I presented a more elaborate
bill as a substitute for the original, and my
recollection is that the latter bill was reported by
the committee in lieu of the original, and with some

amendments finally became a law. The Commissioners appointed by the act, having selected their attorneys, undertook to proceed with their duties, but discovered, as they reported, that the law was insufficient, inasmuch as proper authority for proceeding in chancery for foreclosure had not been confirmed by the act. Thereupon a new bill, prepared, I believe, by the Commissioners and their attorneys, was presented and enacted, and under *that* law the defaulting roads were sold. The purpose of their sale, as before intimated, was to save as much as possible of the State's failing securities and utilize them in the reduction of the bonded debt. Subsequently to the introduction of the bill above described, and before its passage, the bill was introduced, which became a law on the 20th of January, 1870, enabling the debtor railroads to retire their indebtedness by discharging it with bonds of a series. This act was designed to remove and did remove the restriction that had been placed upon the railroad companies by the proviso to the act of 10th March, 1869, which restriction limited the payments by railroad companies, that had issued second mortgage bonds, to the same series of bonds to which the bonds belonged that had been issued to them. It was not considered that the bill (the act of July 20th, 1870) conferred any *new* rights or privileges upon the companies, but that it simply restored the privilege enjoyed under the Sinking Fund clause of the Internal Improvement Act of 1852, under which it was understood the railroad companies had discharged their amount indebtedness for years in bonds of the State without regard to series. This principle had been recognized from the establishment of our Internal Improvement System, by both the Executive and Legislative departments of State, and the General Assembly of 1869-70, in passing the Act of January

17

18

19

20

21 2d, 1870, did not regard it as any innovation upon
the long settled policy of the commonwealth in re-
gard to such settlements. But a few years be-
fore, the State, with the concurrence of all depart-
ments of the Government (the Attorney-General
having sanctioned the proceeding), had settled with
the Louisville and Nashville Railroad Company,
receiving bonds in payment without regard to series.
And this settlement was made by virtue of the pro-
visions of the Act of 1852 and amendments thereto,
22 above referred to. This Act of Jan. 20th, was be-
lived to be inherently just but there was another con-
sideration moving the Legislature to its enactment.
The called solvent roads that were expected to avail
themselves of its provisions were in an embarrassed
condition. They had but recently been restored
from military possession to the possession of the
companies. They were struggling for rehabilitation
under very discouraging circumstances. There was
a general desire for their resuscitation and re-estab-
23 lishment as permanent thoroughfares for our com-
merce, but it was apprehended that under the pres-
sure of accumulated debt and impaired credit they
would soon be compelled to suspend their payments
to the State, be classified as defaulting roads, and
pass into the hands of receivers, and ultimately be
sacrificed at immense loss both to the State and the
companies, and in their view of the case it was re-
garded as a measure of sound and healthful policy
for all the interests involved to accept from the so-
24 called solvent companies in discharge of their debts
the bonds of the State, of any series, and to permit
them to issue *pro tanto* their own first mortgage
bonds, the two-fold object having the reduction of
the debt of our State and the rehabilitation of our
railroad system. These two measures, the bill to
sell the defaulting railroads, and the bill to enable
railroad companies to retire their debts, were re-

garded as kindred measures, and progressed almost 25
pari passu, though differing considerably in the
date of final passage. The friends of one measure
were generally the friends of the other, the purpose
in the minds of the majority being to reduce the
volume of the public debt to manageable propor-
tions, and to marshal all available assets of the
State for that purpose. As a result of the opera-
tion of the two measures the volume of the debt was
reduced to about $20,000,000, a sum which, with ju-
dicious management, I think might have been car- 26
ried by the State with comparative ease. Such are
the principal facts and reasons that influenced my
own action, and, as I believe, controlled the action
of the majority of the members of the General As-
sembly of 1869–70. In regard to the legislature re-
ferred to in the interrogatory as to the "public senti-
ments of the State" in reference to the two meas-
ures, I can only say that while they were pending
they seemed to command almost universal approv-
al. Their passage was certainly generally acqui- 27
esced in. It was not until after the refunding of
the State debt in 1873, when there arose a somewhat
clamorous outcry against the validity of portions of
the public debt, that there was manifested any se-
rious popular dissatisfaction with either of the
measures referred to. Notwithstanding the inves-
tigation of a joint select committee, of which I was
a member, had shown that in some cases there had
been irregularities in the procurement of bonds from
the State, the legality of their issuance and the val- 28
idity of the debt had not been seriously disputed
until 1873, as before stated, nor had the propriety
and wisdom of the legislature referred to until then
become a subject of grave popular complaint. Such
is my recollection.

Ans. to Inter. 6.—No such influences were used by any of said parties within my knowledge.

29 *Ans. to Inter*. 7.—The commissioners appointed by the Legislature to sell the defaulting railroads were Hon. R. J. McKinney, Hon. Archibald Wright and Hon. Francis B. Fogg. The first two named had been Judges of our Supreme Court of Tennessee, and the last named was a lawyer of advanced age and marked eminence. All three were conspicuous personages in the Commonwealth, in whose integrity the whole population had confidence. It was because of their ability and universally recog-
30 nized incorruptibility that they were selected as commissioners by the General Assembly.

Ans. to Inter. 8.—I believe no other material and relevant fact occurs to me calculated to throw light upon the inquiries propounded to me.

And further deponent saith not.

(Signed) JNO. M. FLEMING.

31

32

1

Deposition of Ira P. Jones.

The said IRA P. JONES, being duly sworn and cautioned and charged, deposes and says:

That his name is Ira P. Jones; that he is 50 years of age; and was one of the publishers and proprietors of the *Nashville Union and American*, a newspaper published in the City of Nashville during the year 1871. The order of publication in the case of the State of Tennessee, complainant, against the Edgefield & Kentucky R. R. Co. *et al.*, defendants, a copy of which is here filed and made a part hereof, and marked "Exhibit A" to my deposition, was published in said paper on the 22d day of January, 1871, and the publication was continued therein daily to and including the 19th February, 1871. 2

The order of publication under the amended and supplemental bill, wherein the State of Tennessee was complainant against the Edgefield & Kentucky R. R. Co. *et al.*, defendants, was published in said paper on the 16th day of April, 1871, and the publication was continued daily therein until and including the 14th day of May, 1871. 3

A copy of said last-mentioned advertisement is here filed, marked "Exhibit B," and made a part of this deposition.

IRA P. JONES.

Subscribed and sworn to before me, }
this 29th day of August, 1879. } 4

E. R. CAMPBELL,
Examiner.

5 EXHIBIT A TO DEPOSITION OF IRA P. JONES.

ORDER OF PUBLICATION.

IN CHANCERY AT NASHVILLE—STATE OF TENNESSEE.

Office Clerk and Master Chancery Court,
NASHVILLE, January 20, 1871.

6 THE STATE OF TENNESSEE,
Complainant,
vs.
THE EDGEFIELD & KENTUCKY R. R. Co. *et al.*,
Defendants.

7 It appearing from the allegations of the bill filed in this cause that the names and residences of a number of the stockholders of the defendants, the Edgefield & Kentucky Railroad Company, the Nashville & Northwestern Railroad Company, the Memphis, Clarksville & Louisville Railroad Company, the McMinnville & Manchester Railroad Company, the Winchester & Alabama Railroad Company, the Southwestern or Southern Railroad Company, the Knoxville & Kentucky Railroad Company, 8 the Cincinnati, Cumberland Gap & Charleston Railroad Company, the Knoxville & Charleston Railroad Company, the Rogersville & Jefferson Railroad Company, the East Tennessee & Western North Carolina Railroad Company, are all unknown, as also the names and residences of a number of the holders of the bonds issued by the complainant, the State of Tennessee, to the before-named railroad

companies, and also of the holders of the bonds issued by said railroad companies, or any of them; and also of a number of the creditors of said railroad companies; and that the names and residences of a number of persons interested in said before-mentioned roads or railroad companies are also unknown. 9

It is, therefore, in pursuance of the provisions of the Act of the Legislature of the State of Tennessee, passed on the 21st day of December, 1870, entitled, "An Act to Amend the Act of 1870, Ch. 79, for the Sale of the Interest of the State in Delinquent Railroad Companies," passed July 1, 1870; and of the allegations and prayer of said bill in the cause, ordered, that all unknown stockholders, holders of the bonds issued by said companies, creditors of said companies, and all other persons interested in said several roads or railroad companies before named, enter their appearance herein at a Special Term of said Chancery Court, at Nashville, to be held on the first Monday of March, 1871, and that all of said defendants, or so many of them of the different classes as the Court may deem sufficient to represent all of each class, be required to answer the allegations of the bill on oath, and put in such defense to said bill as they may respectively deem proper under the provisions of said Act of 21st of December, 1870, or the bill will be taken for confessed, as to them, and set for hearing *ex parte;* and that a copy of this order be published for four consecutive weeks in the *Nashville Union and American* and *Republican Banner.* 10 11 12

(A true copy.)

Attest:

NATHANIEL BAXTER, Jr.,

Clerk and Master.

E. H. Ewing,
W. F. Cooper, } *Solicitors for Complainants.*
W. B. Reese,

13 EXHIBIT B. TO DEPOSITION OF IRA P JONES.

Order of Publication under amended and Supplemental Bill.

STATE OF TENNESSEE,
Office Clerk and Master Chancery Court,
NASHVILLE, APRIL 15, 1871.

THE STATE OF TENNESSEE,
14 *Complainant*,
vs.
THE EDGEFIELD AND KENTUCKY R. R. Co., *et. al.*,
Defendants.

It appearing from the allegations of the original
15 and amended and supplemental bills filed in this cause, and which are duly sworn to, that the defendants Bristol, Stedman & Co., and A. L. Maxwell are now residents of the State of Tennessee, and that the names and residences of a number of the stockholders of the defendants, the Edgefield & Kentucky Railroad Company, the Nashville & Northwestern Railroad Company, the Memphis & Clarksville Railroad Company, the McMinnville & Manchester Railroad Company, the Southwestern
16 & Southern Railroad Company, the Knoxville & Kentucky Railroad Company, the Cincinnati Cumberland Gap & Charleston Railroad Company, the Knoxville & Charleston Railroad Company, the Rogersville & Jefferson Railroad Company, the East Tennessee & Western North Carolina Railroad Company are all unknown, although diligent inquiry has been made to ascertain the same, as are

also the names and residences of a number of the 17
holders of the bonds issued by said railroad companies,
and also of the holders of the bonds issued
by the complainant, the State of Tennessee, to the
before-named railroad companies, and also of the
holders of the bonds issued by said railroad companies
or any of them, and also of a number of the
creditors of said railroad companies, and also that
the names and residences of a number of persons
interested in the said before-named roads
or railroad companies are also unknown, although 18
diligent inquiry has been made to
ascertain the same. It is, therefore, in pursuance
of the provisions of an act of the legislature
of the State of Tennessee, passed on the 21st day
of December, 1870, Entitled "An Act to amend the
Act of 1870, Chapter 79, for the State's interest in
delinquent railroad companies," passed July 1,
1870, and also in further pursuance of a decree
rendered by the Chancery Court at Nashville, in
the above-entitled cause rendered on the 15th day of 19
April, 1871, and of the allegation and prayer of the
original and amended and supplemental bills in the
cause, ordered that the said above-named defendants,
Bristol, Stedman & Co. and A. L. Maxwell and
all of said unknown stockholders, holders of bonds
issued by the State to said companies, and other
persons interested in said several roads or railroad
companies before named, enter their appearance
herein, on or before the seventh Monday of the
present Term of this Court, being the 15th day of 20
May next, 1871, said day being a Rule day for the
return of processes and for the publication in lieu
thereof, by order of the Chancellor of said Court,
in pursuance of the law in such cases made and
provided, and that all of said defendants, or so
many of them of the different classes as the Court
may deem sufficient to represent all of each class,

21 be required to appear and put in such defense to said bills as they may respectively deem proper under the provisions of said act of December, 21, 1870, or the original and Amended and Supplemental Bills will be taken for confessed as to them, and set for hearing *ex parte*, and that a copy of this order be published for four consecutive weeks in the Nashville *Union & American*, and the *Republican Banner*.

A Copy attest,

22 NATHANIEL BAXTER, JR.,
Clerk and Master.

E. H. Ewing,
W. F. Cooper,
W. B. Reese,
Solicitors for Complainants.

23

24

Deposition of Ex-Governor James D. Porter. 1

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement bonds of Tennessee, issued to the Mississippi Central & Tennessee Railroad Company, 2

vs.

THE CHICAGO, ST. LOUIS & NEW ORLEANS RAILROAD COMPANY *et al.*

Before JOHN C. SWEENY, Notary Public in and for Henry County, Tennessee. 3

At Paris, Tennessee; taken in pursuance of an agreement of counsel.

Present—JAMES FENTRESS, of counsel for defendant.

EX-GOVERNOR JAMES D. PORTER, a witness produced on the part of the defendants, being by me first duly cautioned and sworn as a witness in the 4 above-entitled suit, to testify the truth, the whole truth, and nothing but the truth, deposes and says:

5 1 Q. State your age and residence?

A. I am fifty years of age, and reside at Paris, Tennessee.

2 Q. Are you familiar with the past history, politics and policy of the State of Tennessee, particularly as to her system of Internal Improvements, and if so, please state your means of knowing,—the offices, if any, that you have held in said State, and when and whether her internal improvement system
was or not a leading feature in her politics and
6 policy?

A. I am familiar with the history, politics and
policy of the State; I am a native of the State of
Tennessee, and have been an active participant in
the affairs of the State for more than twenty years;
I was a member of the State Legislature for the
years 1859–60–61; was a member of the Constiu-
tional Convention of 1870; during the year last
named, I was elected Judge of the Twelfth Judicial
Circuit of the State for the term of eight years, and
7 after a service of three and a half years I resigned
and soon thereafter I was nominated and elected
Governor of the State, and was again elected in the
year 1876 for a second term; in these several offices I
had much to do with the Internal Improvement sys-
tem of the State, and in the construction of the laws
providing for that system during my service as
Governor; I was *ex officio* a member of the Board
of Commissioners for the sale of delinquent rail-
roads, and read critically all acts of the Legislature
8 relating to the subject; the settlement of the public
debt of the State created in aid of the construction
of our turnpike and railroad system was the hope
and leading thought of my administration, and to
aid in this settlement I made a careful examination
of the several series of bonds to test in my own
mind the propriety and validity of their issuance
and the liability of the State for their payment;

during my term of office as Governor, the public 9 debt, just referred to, was the leading question discussed upon the hustings, by the Press and the Legislature; In my last message to the Legislature I stated that it was "paramount to all questions of legislation that can engage the attention of the General Assembly."

3 Q. Please state how long the Internal Improvement system has been the leading question before the Governors and Legislatures and people of Tennessee? 10

A. It was an important question from 1829 to 1834; since the last date it has been a leading question before the people and in the legislature; the Constitution of the State, adopted in 1834, enjoined the establishment of an effective system of Internal Improvement.

4 Q. Please give an outline of the different schemes which were discussed before the people and in the Press and by the Legislature of the State of Tennessee for carrying out the Internal Improvement 11 system of the State?

A. The first scheme discussed and adopted was the one inaugurated in 1829, providing for the appointment of six Commissioners of Internal Improvement, who were to determine what improvements were necessary, and what amount of money should be appropriated; this scheme continued in force until 1834, when a new constitution was adopted; under its provisions the public demanded a new system, which was provided by the Act of 12 1835, authorising the construction of railroads and turnpikes, and making the State a stockholder to the amount of one-third of the stock, payable in bonds of the State, in cases where the balance of the stock was subscribed by the company; by the act of 1837-8, the State took half of the stock in the improvements thereafter made, upon the same terms as provided by the Act of 1835; these acts were re-

13 pealed by the Act of 1839–40; by the Act of 1847–8 the State was authorized to aid Internal Improvements upon terms therein prescribed by endorsing the bonds of such companies as brought themselves within the provisions of the act. This act continued in force with some slight modifications until 1851–2, when in response to a public sentiment that had been aroused to a point of enthusiasm, a general system of Internal Improvements was provided and the railroad system of Tennessee created.

14 5 Q. Why, if you know, was each scheme abandoned and its successor adopted. Particularly, why was the scheme enacted by the Acts of Tennessee of 1847–8, Chapter CLXIX, Section 2, *et seq.*, modified by Acts of 1849–50, Chapter XLII, Section 11, *et seq*, and abandoned by Acts of 1851–2, Chapter CLI?

A. The schemes provided from 1829 to 1851–2 were abandoned as soon as they were fairly tested, because they failed to meet their promise or the 15 expectation of the country. The scheme of 1847–8, was abandoned because no market could be found for endorsed bonds at anything like their par value.

6 Q. State if you know what was and has been the practical construction by the State of the Acts of 1851–2; please answer fully?

A. The construction given to this Act by the State authorities, and by all departments of the State government has been uniform; the said Act provided for a sinking fund, to be paid by the several 16 roads to which State aid had been granted, to be used in retiring the debt thus created; under this Act the sinking fund could be, and was, paid for several years in any of the bonds of the State; the bonds issued by the State to rebuild the roads after their destruction during the late war were accorded the same dignity as the bonds issued to build the roads

before the war, and the same lien is fixed by Statute 17
upon the roads in favor of the State for both series; the State claimed and exercised the right of selling the delinquent roads without regard to the holders of the bonds, and reserved the right of doing anything necessary to protect the interest of the State; under said Act there is no provision to distingush the bonds issued to one road from those issued to any other road, and in cases of the sale of railroads or the payment of money by Receivers, the proceeds
have in every instance been turned over to the State 18
without regard to the holders of the bonds of the State.

7 Q. Have you been acquainted with the market value of bonds of the State of Tennessee since 1851-2?

A. I am, and have been acquainted with the market value of our State bonds since 1851-2.

8 Q. Please state what difference, if any, was made in the money markets between Tennessee
bonds: 19

(1) Issued to build the capital;

(2) To buy the Hermitage;

(3) To the Union Bank;

(4) To the Bank of Tennessee;

(5) To Agricultural Bureau; 20

(6) To Turnpike Companies; and

(7) To Railroad Companies?

A. There has been no difference in the market value of the several series of bonds named in the interrogatory, except in the instance where the

21 bonds carried only five per cent. interest, which was true of some of them; generally they carried six per cent.; all bonds carrying five per cent. were of of equal value, and all carrying six were of equal value.

9 Q. Has there ever been any difference in value in the money markets between State bonds issued in aid of insolvent railroads and those issued in aid of solvent railroads; or between bonds issued to build the Capital, buy the Hermitage or to 22 establish the Agricultural Bureau, and either of the before mentioned bonds?

A. The bonds issued to solvent and insolvent railroads enjoy the same dignity, and there has not been the slightest difference in their market value, and both have rated in the money market at the same price as the bonds issued for the building of the State Capital; those for the purchase of the Hermitage, and those issued to the Agricultural Bureau.

23 10 Q. Do you know any railroad to which State bonds were issued which was not at the time of such issuance, or at any time since, worth the amount of the bonds issued to it; if so, give an instance; also give an instance, if there is any, in which a railroad was worth the amount of bonds issued to it at the time of such issuance and has so continued ever since?

A. The Tennessee & Alabama Railroad, the McMinnville & Manchester, the Tennessee & Pacific, 24 the Knoxville & Charleston, the Rogersville & Jefferson, the Knoxville & Kentucky, the Cincinnati, Cumberland Gap & Charleston, the East Tennessee & Western North Carolina Railroads, were never worth the amount of bonds issued to them respectively by the State, or half of the amount issued; the Louisville & Nashville, the Mississippi & Tennessee, the Nashville & Chattanooga, the Mem-

phis & Ohio, and the Nashville & Decatur, are instances of railroads that have at all times been con- 25
sidered of equal or of greater value than the amount of bonds issued to them respectively by the State of Tennessee.

11 Q. Has the State of Tennessee ever defaulted in the payment of interest on all her bonded indebtedness; if so, when, and for how long?

A. The State defaulted on the interest due during the late war, and upon all instalments of interest upon the entire bonded debt (except small amounts 26
held by educational and charitable institutions) with the exceptions of about four millions ($4,000,000) of dollars of interest paid during the years 1866-7-8-9, and the instalments maturing July, 1874, January, 1875, and July, 1875.

12 Q. After the State of Tennessee had been in default on her interest, was there not at any time a difference in the market value of bonds issued to solvent railroads, and those issued to insolvent railroads, or those issued to build the capital? 27

A. The default of the State did not affect the relative value of the bonds issued by the State for any purpose or enterprise.

13 Q. Did you ever hear prior to or during your administration as Governor of Tennessee, of any holder of bonds issued by the State in aid of railroads claiming or intimating that he claimed that such bonds were a lien on the railroads to which they were issued; if so, who, and when?

A. No such claim or demand was ever made, and 28
I never heard that such a claim was made until about the time of the institution of this suit.

14 Q. How long prior to the institution of this suit did you hear of such claim of lien?

A. Within a few weeks.

15 Q. Did you, while Governor of Tennessee, have

29 any correspondence with the holders of Tennessee
bonds, and if so, did they not in such correspondence
claim that their bonds were secured by a lien on the
railroads to which they were issued ?

A. I had an extensive correspondence with the holders of our State bonds; not one of them intimated an opinion that the railroads were in any event liable for the bonds issued to them, or that a lien was reserved on the roads for their payment.

16 Q. Did the State at any time institute legal
30 proceedings to enforce the lien which she reserved in
her Internal Improvement laws against any railroad
on account of the aid furnished it, if so, when; and
were said roads sold, and if so, what roads, and
when ?

A. In January, 1871, the State filed a bill in the
Chancery Court at Nashville, against the Edgefield
and Kentucky, the Nashville and Northwestern, the
Memphis, Clarksville and Louisville, the McMinnville and Manchester, the Winchester and Alabama,
33 the Southwestern or Southern, the Knoxville and
Kentucky, the Cincinnati, Cumberland Gap and
Charleston, the Knoxville and Charleston, the Rogersville and Jefferson, and the East Tennessee and
Western North Carolina Railroads to enforce the
lien reserved by the State for the bonds issued to
them respectively; sales of these roads were made
at different times during the next few years succeeding the date of the filing of the bill; the last sale
was that of the Knoxville and Charleston Railroad,
32 made under my own direction in the year 1876.

17 Q. When these railroads were sold, how were the proceeds of sale disposed of by the State; state also whether any bondholder claimed that such proceeds ought to be applied to payment of his bond ?

A. The roads were paid for by their purchasers in any of the bonds of the State, and they were cancelled and filed in the office of the Comptroller of the

Treasury; no bondholder claimed proceeds of these 33
sales for any purpose.

18 Q. How was the Tennessee Pacific Railroad disposed of by the State, was it sold; if not, what arrangement was made as to it?

A. The Legislature passed an Act relinquishing the lien of the State on the Tennessee and Pacific Railroad on the payment of three hundred thousand dollars ($300,000) in the bonds of the State; one hundred and fifty thousand dollars ($150,000) in
bonds was paid when the contract was made, and 34
in the year 1876 it was sold under my direction to the highest bidder at public out-cry for the balance of one hundred and fifty thousand dollars and interest, and was paid for in the bonds of the State.

19 Q. Have you any interest in the bonds of the State of Tennessee or in the stock of any railroad; state also whether you had, while Governor of Tennessee, any bonds of the State of Tennessee or any stock in any railroad?

A. I have no interest in Tennessee bonds, neither 35
have I in the stock of any railroad, and did not have during my terms of office as Governor.

20 Q. State, if you know, whether the State of Tennessee, under her Internal Improvement laws, took possession of any railroad in Tennessee by Receivers, and if so, when, and what roads?

A. Receivers were appointed for the Nashville and Northwestern, the Edgefield and Kentucky, the Mississippi Central, the Memphis, Clarksville and
Louisville, the Cincinnati, Cumberland Gap and 36
Charleston, the Knoxville and Charleston, the Knoxville and Kentucky, the Winchester and Alabama, the McMinnville and Manchester, the Rogersville and Jefferson Railroads; I cannot now answer as to the date of the appointment of Receivers, but all of the roads mentioned were in the hands of Receivers for several years except the Mississippi Central, and

37 they were so held and operated until they were sold
under a decree of the Chancery Court at Nashville
under proceedings instituted in 1871.

21 Q. State whether the State in the selection or appointment of any Receiver to take charge of a railroad under her Internal Improvement laws, in any way consulted with any holder of her bonds as to the propriety of such step?

A. I am satisfied that no holder of any bonds
of the State was ever recognized as being interested
38 in the question, and that none of them ever claimed
the right of making a suggestion as to the duty of
the State; in the case of the Mississippi Central
Railroad, the Receiver was appointed upon my
own motion, as a means of protection to the State;
no holder of the bonds of the State was consulted;
no one of them advised me or suggested what course
to pursue, and as payments were made by the Re-
ceiver, the amount of them was passed into the
Treasury without any expression of dissent or ap-
39 proval from the holders of our bonds.

22 Q. When you appointed a Receiver of the Mississippi Central Railroad, how many of the bonds claimed to have been issued to it and the Mississippi Central and Tennessee Railroad by the State were then outstanding? If you cannot state how many exactly, give as near as you can the amount?

A. A large number of the bonds issued to this road—about half of them—had been cancelled, when the Receiver was appointed.

40 23 Q. Did you appoint the Receiver and seize and
hold the Mississippi Central Railroad for the amount
of unpaid outstanding bonds or for the whole
amount of all the debt created by the issuance of
State Bonds to such road, without regard to whether
the bonds issued to such road had been paid in to
the State and cancelled or not?

A. In dealing with this road I paid no attention to

the fact that about half of the original issue had 41
been cancelled; the cancelled bonds had been paid in on the sinking fund account of this and other roads or paid in by other railroad companies, turnpike companies or others, in satisfaction of debts due from them to the State; and when final settlement was made by the purchaser of this road, the debt of the State, being the amount of the bonds loaned to this Company, amounting to one million one hundred and ninety-nine thousand one hundred
and eighty dollars ($1,199,180) principal, with the 42
interest, was paid to the State in State Bonds.

24 Q. Did or not the State authorize sureties on the bonds of defaulting officers of the State to pay into the State any of her outstanding bonds and coupons? And, if so, were any State Bonds so paid in?

A. This authority was accorded by the Acts of 1875 and 1877 to sureties of defaulting revenue officers; a considerable number of bonds were paid in
and cancelled under this authority; these pay- 43
ments were made in any series of registered or funded bonds.

25 Q. Did the State by its Receiver in charge of the Mississippi Central Railroad collect any amount of money above its running expenses? And if so, what amount?

A. The State collected from the Receiver of this road one hundred and ten thousand dollars ($110,000) in currency over and above running ex-
penses? 44

26 Q. What was done with said $110,000? Did the State hold it as a trust fund?

A. It was passed into the State Treasury as ordinary revenue, and used and appropriated in the same manner. No trust relation was recognized by the State authorities in connection with said fund.

45 27 Q. Did you as Governor of Tennessee call public attention to the fact that said $110,000, or any part thereof had been collected by the State in money from said railroad? And if so, how and when?

A. In my message to the Fortieth General Assembly of the State, delivered January 1st, 1877, I communicated the fact that the Mississippi Central Railroad had defaulted on two installments of interest due on the bonds loaned to the Company by 46 the State, and that I had appointed a Receiver, who had taken possession of the road, and that he had up to that time paid into the Treasury of the State sixty thousand dollars ($60,000) in currency. This message was copied very generally by the newspapers of Tennessee and by a number of leading papers out of the State.

28 Q. Had the holders of Tennessee Bonds been in correspondence with you at or before that time? And if so, state whether you made any mention of 47 such correspondence in the same message in which you mentioned the appointment of a Receiver of the Mississippi Central Railroad, and the payment by him as such of $60,000 to the State, as stated in your last answer?

A. I had been in correspondence with the holders of our bonds, and in the message referred to in last answer I communicated a part of this correspondence to the Legislature.

29 Q. Please file as part of this your deposition 48 said message?

(A. The message is filed herewith, marked "Exhibit 1, J. D. P.")

30 Q. I see on page twelve of said printed message that you state "Negotiations are now pending "by which the past due interest and sinking fund "due from this Company, and possibly the princi-"pal not yet due, will be paid at an early day."

Now please state whether the said message came to 49
the knowledge of the holders of Tennessee Bonds, if you know, and particularly, whether the said message came to the knowledge of the complainant, C. Amory Stevens ?

A. This message did come to the knowledge of many of our creditors; I know it from the fact that in February, after its delivery, I received a communication signed by C. Amory Stevens, and more than twenty others, submitting through me to the Legislature and people of Tennessee a series of 50
propositions looking to an adjustment of the State debt, in which they propose that certain reforms recommended in said message be enacted into a law.

31 Q. Will you please file said written communication as a part of this your deposition ?

A. I file the communication; marked "Exhibit 2, J. D. P."

32 Q. Did complainant (C. Amory Stevens) or any other bondholder request you, as Governor, to set apart said $60,000 to the payment of the bonds held 51
by them or in any way intimate that they, as such holders, had any claim on said fund or any fund realized from the Mississippi Central Railroad under the State Receivership ? If so, state it ?

A. Neither C. Amory Stevens nor any other creditor of the State ever made any request or suggestion in relation to said fund. These parties were treating with the State as their debtor, and never intimated then or at any subsequent period during my administration that the State held the relation of trustee or 52
thatthey had any claim upon said fund.

33 Q. Did you mention the fact that the Internal Improvement Debt of the Mississippi Central Railroad had been paid to the State in any of your public messages to the Legislature ? If so, when ? State also whether such message was brought to the attention of the holders of Tennessee bonds, if you know ?

53 A. I communicated the fact, that the debt of the Mississippi Central Railroad had been paid to the Legislature in a message of December 5th, 1877, and in another message of January 6th, 1879; the Legislature was convened in extra session on the 5th December, 1877; I was in correspondence with our creditors before this call was made, and the leading ones were generally advised of my purpose to make it; Messrs. Eugene Kelly, E. D. Morgan and Company and others requested me by letter
54 to make the call, and I take it that they read my message; it was generally published.

34 Q. You speak of a very extensive correspondence between you as Governor and the State authorities of Tennessee with the holders of Tennessee bonds; please state whether they made any proposition of settlement of the whole bonded debt of the State? And if they made more than one proposition, state each, with a short chronological history of whether such proposition was entertained or
55 acted on by the State or its authorities?

A. Immediately after my inauguration as Governor in January, 1875, the creditors of the State commenced a correspondence with me in relation to the public debt; after the default was made in the payment of the interest in July of that year, this correspondence increased in volume and in interest, until the 20th of December, 1876, a number of the leading creditors of New York addressed a letter to me, asking me to recommend the appointment of a
56 commission to visit New York to confer with holders of Tennessee bonds with the view of an adjustment of the debt; I made this recommendation to the Legislature; after some hesitation and delay, and a second appeal by creditors (dated 15th February, 1877), the commission was appointed by the Legislature; this commission visited New York, and on the 8th March, 1877, met with a committee of arbi-

ters appointed at a meeting held at the Clearing 57
House on the 20th of January, 1877, and after a discussion
by the two committees, the arbiters recommended
an adjustment of the State debt at the rate
of sixty per cent. of the total amount, and forwarded
their recommendation in writing to me; after ascertaining
that this recommendation for settlement was
acceptable to the creditors, upon the completion of the
assessment of the property of the State for taxation,
I convened the Legislature in extra session, and
submitted this proposition and recommended its 58
adoption with the utmost earnestness in a message
dated the 5th of December, 1877, which is filed herewith
as "Exhibit No. 3, J. D. P.;" after a delay of
several days by the Legislature in discussing this
proposition, it was clearly demonstrated that it
would be rejected, and that the body would adjourn
without accomplishing anything; about the 10th of
December several creditors appealed to me to submit
a proposition for settlement at the rate of fifty
per cent. of the whole debt; I hesitated, fearing 59
that this propostion would not be acceptable to the
creditors; the following day I received a telegram
from C. Amory Stevens, one of the large holders of
Tennessee bonds, urging me to submit the fifty cent
settlement to the Legislature and assuring me that
it would be acceptable to the investment holders of
our bonds; thereupon, I intimated a request to
the Legislature to adjourn, and immediately convened
that body in extra session a second time, submitted
the last-named proposition and recommended 60
its acceptance in a message dated December 12th,
1877; said message is filed herewith as "Exhibit
No. 4, J. D. P.;" the Legislature adjourned without
making the settlement and during the remainder
of my official term I maintained a correspondence
with the creditors of the State.

35 Q. Did any of the New York holders of State
bonds come in person and visit you or the Legisla-

61 ture of Tennessee at Nashville in the fall or winter of 1877? If so name some of them and state if you know what was their business in Nashville at such time; state also if you know whether they personally urged legislation looking to a settlement of all the bonded debt of the State?

A. There were several holders or representatives of holders of Tennessee bonds present at Nashville in December, 1877, during the sessions of the Legislature mentioned in my answer to last interrogatory;
62 I do not remember the names of any of them except that of Mr. P. Geddes; they were here to aid as far as they could in effecting a settlement of the State debt.

36 Q. Do you mean by "P. Geddes," Peter Geddes, of New York, member of the "Committee of Tennessee Bondholders," and member of the firm of Geddes & Smith? And if so, was he in conference with you at said time? State also whether he was or not fully advised on the condition of the bonded
63 debt of the State, and particularly whether he knew of the proposed settlement of the Internal Improvement Debt of the Mississippi Central Railroad to the State, if you know?

A. In referring to P. Geddes in answer to last interrogatory, I allude to Peter Geddes, of the firm of Geddes & Smith, of New York City; he was in daily conference with me at the time of his visit; he was well informed in all matters relating to the State debt, and I conferred with him with perfect frank-
64 ness; he was fully advised of the proposed settlement of the debt of the Mississippi Central Railroad—indeed the first intimation I had of a purpose to discharge this debt within a certain fixed time came from Mr. Geddes in a letter from him to the Comptroller of the Treasury which was sub, mitted to me.

37 Q. Are the letters and telegrams from holders of Tennessee bonds incorporated with your messages

of December 5th, and December 12th, 1877, true 65
copies of such letters and telegrams ?

A. They are.

38 Q. Please state whether the letters signed by Mr. Geddes and dated August 1st, 1877, August 23d, 1877, August 27th, 1877, and August 29th, 1877, addressed to James L. Gaines, or James L. Gaines, comptroller, were ever seen by you ? If so, when and under what circumstances. Please also file a true copy of each of said letters, as part of your deposition ? 66

A. The letters named in the interrogatory from Mr. Geddes were received in due time by mail, and immediately submitted to me; the several answers to them were written at my request, and first submitted to me for approval; true copies of said letters are filed herewith as "Exhibits No. 5, 6, 7, 8, J. D. P."

39 Q. In the letter of August 27, 1877, Mr. Geddes refers to an interview which he had just had with Mr. Osborn. What Mr. Osborn did you understand 67
he referred to in said letter, and what connection, if any, did he have with the purchasers of the Mississipi Central Railroad ?

A. I understood him to refer to W. H. Osborn, president of defendant, the Chicago, St. Louis & New Orleans Railroad.

40 Q. In the letter of Geddes and Smith and E. D. Morgan & Co., of February 23d, 1877, addressed to you as Governor, it was suggested that the debtors of the State be required in "a reasonable time, say 68
by or before July 1st, 1877, to pay off every obligation due from them to the State as they may now do," etc. What debtors and obligations does this refer to ? Please make a true copy of said letter a part of this your deposition.

A. The reference was to the railroads to which bonds for their construction or equipment had been

69 loaned; I file a copy of the said letter, marked "Exhibit 9, J. D. P."

41 Q. In Peter Geddes' letter of August 27th, 1877, aforesaid, he refers to the paying off the lien of Tennessee on the Mississippi Central Railroad, and states that there was little doubt that the last of Tennessee's advances to railroads would be paid off that fall, and that it was quite well understood in New York, "thus freeing her, and her creditors too, for that matter, from a very troublesome disorder."
70 Please state whether from your interviews and correspondence with holders of Tennessee bonds they intimated any objection to railroads paying off the State's lien on account of Internal Improvement aid, or whether they favored it?

A. No objection was ever made by the holders of Tennessee bonds to the settlements made by the State with the railroads; on the contrary, my understanding derived from my correspondence with them was that they agreed with me in the importance of
71 a settlement with all the roads at the earliest day.

42 Q. Did the complainant, Calvin Amory Stevens, have any correspondence with you? If so, please file copies of such letters, circulars, etc., as he sent you in February 1, 1877, January, 1878, and December, 1877, at the time the special sessions of the Legislature were in session. Please file the original circulars, if any, and the envelopes in which such were enclosed, and make such letters and circulars Exhibits to this your deposition?

72 A. The first communication from complainant is dated February 15, 1877, and is "Exhibit 2" to this deposition; the next is incorporated in "Exhibit 4" of this deposition, and is dated December 11th, 1877; the next two are dated December 15th, one a letter, the other a telegram; they are here filed as "Exhibits 10 and 11, J. D. P"; the next is a circular, dated July 19, 1878; I mark said circular with the en-

velope in which it was received as "Exhibit 12, J. D. 73
P"; the next is a letter of January 25th, 1878, marked "Exhibit 13, J. D. P," enclosing certain newspaper clippings with headings in complainant's handwriting, which are here filed as part of the last-named exhibit.

43 Q. Did you acknowledge receipt by letter of complainant's letters of January 24th and 25th, 1878, if so, file a copy of such letter?

A. I answered said letters; a copy of my answer
is here filed as Exhibit 14, J. D. P. 74

44 Q. You refer in Exhibit 14 to a letter of 24th January, 1878, written by complainant to you; please file said letter and also copy of your letter of 19th January, 1878, to Mr. Manning, to which you refer, which you say was furnished complainant.

A. I file copy of letter to Mr. Manning, marked "Exhibit 15, J. D. P.," and copy of letter from Mr. Stevens, marked "Exhibit 20, J. D. P."

45 Q. The complainant in his deposition states 75
that he got two of the bonds sued on from John B. Manning, in fall of 1878; did said Manning have any correspondence with you? if so, please file copies of his letters?

A. I had correspondence with John B. Manning; I file three letters from him, marked "Exhibits 16, 17, 18, J. D. P."

46 Q. Did you have correspondence as to the State debt with other holders of her bonds than those
mentioned hereinbefore? 76

A. I had correspondence with many other holders of Tennessee bonds; a large number of letters and telegrams from them in relation to the State debt are on file at the State Capitol.

46 Q. After you had appointed a receiver of the Mississippi Central Railroad were there any propositions to settle with the State by any party; if so, state each and what the State did as to them?

77 A. J. B. Alexander was appointed by the United States Courts of Tennessee, Kentucky and Louisiana Receiver of this road embracing the entire line from Cairo, Illinois, to New Orleans; there was a decree entered in the United States Court at Memphis, authorizing him to pay the defaulted interest to the State; he proposed to pay it, and tendered his check for it; I refused to receive the money and continued to operate the road through the State Receiver until the entire debt, principal and interest,
78 was paid.

48 Q. Did you as Governor of Tennessee make any representations to the purchasers of the Mississippi Central Railroad prior to their purchase as to the debt and lien claimed by the State on said road under her Internal Improvement Acts; if so, state them?

A. The purchaser was informed in advance of the purchase that the State had an exclusive lien on the Tennessee part of the road for the payment of the
79 amount of the bonds loaned to the company, and that under our law, the purchaser could be substituted to the rights of the State upon the payment of the debt; I also informed him that the debt would be paid in Tennessee bonds; at the same time the purchaser was notified that I would not surrender the possession of the road until the entire bonded debt was paid; under our Internal Improvement Acts, the stockholders of the company could recover possession of the road from the State by
80 paying the defaulted interest, but this right did not belong to any of the other parties who were demanding the surrender of the road, and I employed this power to coerce the purchaser to pay off the entire debt.

49 Q. Did you as Governor make any suggestion or representation to said purchasers before the pur-

chase of the Mississippi Central Railroad as to substitution of mortgage bonds to the lien of the State? if so, state it. 81

A. I discussed the question of substitution with the representatives of the purchasers, and stated, pending negotiations for the purchase, that mortgage bonds could be issued by the purchaser and substituted to the lien of the State.

50 Q. Please examine acquittance and assignment here handed you and state whether you, as Governor of Tennessee, and Charles N. Gibbs, as Secretary of State, executed and delivered the same on the day it bears date to the trustees named in the mortgage made by the Chicago, St. Louis and New Orleans Railroad Company, the defendant, on Nov. 8, 1877? 82

A. The acquittance and assignment mentioned in interrogatory was executed by myself, as governor, and Chas. N. Gibbs, as Secretary of State; at the time it bears date.

51 Q. Please make an Exhibit of said acquittance and receipt to your deposition? 83

A. I file it herewith marked, "Exhibit 19, J. D. P."

And further deponent sayeth not.

(Signed) JAMES D. PORTER.

STATE OF TENNESSEE, }
County of Henry. }

I, JOHN SWEENY, notary public, do hereby certify that the foregoing deposition of thirty-nine pages was taken by me as stated in the caption, and that each answer of the witness was written by myself, and that said witness, J. D. Porter, made oath before me in due form of law, that said deposition 84

85 **was true and signed his name thereto in my presence.**

In witness whereof, I have hereunto set my hand and notarial seal this the twenty-fifth day of March, 1880.

[SEAL]

JOHN C. SWEENY,
Notary Public.

My fee, one dollar.
86 **JOHN C. SWEENY, *Notary*.**

87

88

EXHIBIT No. 1.—J. D. P. 89

MESSAGE OF JAS. D. PORTER, GOVERNOR OF TENNESSEE, TO THE FORTIETH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE.

MESSAGE.

Gentlemen of the Senate and House of Representatives:

Assembled in obedience to the laws of Tennessee, 90
to perform the legislative functions of the State Government, you will not, I am confident, be unmindful of their magnitude, or wanting in wisdom or courage for their performance; your action will affect all the great interests of our people, and I promise executive co-operation in all measures you may devise for their relief.

FINANCIAL CONDITION OF THE STATE.

The funded and registered bonds outstanding, 91
amount to $22,812,400; the bonds belonging to East Tennessee University, not required to be registered, amount to $396,000; the fundable bonds and coupons not presented, amount to $1,021,000; the past due interest amounts to $2,088,756; these sums constitute the State debt, and amount to $26,310,156; from this sum is to be deducted $1,671,916, loaned to the Memphis and Charleston Railroad; $1,199,180, loaned to the Mississippi Central Railroad;
$316,774, loaned to the Mississippi and Tennessee 92
Railroad; $14,150, due from purchasers of the Tennessee and Pacific Railroad; $51,125, due from purchasers of Knoxville and Charleston Railroad, and $204,000, due from purchasers of the McMinnville and Manchester Railroad, aggregating $3,458,145, all of which will be paid, leaving as the debt to be provided for, $22,852,011, less $95,636.10, interest

93 from solvent railroads due January 1st, 1877. The outstanding warrant account amounts to $129,060.21, and there is in the Treasury the sum of $139,332.19, in cash, with taxes due and uncollected, amounting to $1,570,659.50.

For a statement in detail of the financial condition of the State, reference is made to the comprehensive reports of the Comptroller and Treasurer, which are herewith transmitted. It will be observed that in the two
94 years past a material reduction has been made in the current expenses of the State, and the estimate made by the Comptroller for the next two years shows that a further reduction will be made; these estimates are based upon existing statutes. In considering this subject, the fact must be remembered that the shrinkage in values has reduced the assessment roll in two years $20,425,835, causing a reduction of $81,703.34 per annum in the revenues of the State; this reduction in values is not alarming;
95 the taxable property of the State is now $268,002,485; this is only four millions and a fraction of a half less than it was in 1872; it is nearly sixteen millions more than it was in 1870, and is forty-five millions more than it was in 1869, and fifty millions more than it was in 1868.

The borrowed money account due at my inauguration, the warrant account, the interest on the school fund, and the interest on bonds of the State held by schools and colleges, has been paid from the
96 revenues of the State. In June preceding the maturity of the interest on the bonded debt, due July 1st, 1875, after it had been ascertained that it was impossible to meet it out of the revenue of the State, under my direction the Comptroller of the Treasury undertook to negotiate the loan of a sum sufficient for that purpose; the terms offered to the State were harsh and unreasonable, and the interest

demanded was so exorbitant that it was determined 97
by the executive officers to let the payment go by
default, and to rely for the future upon the revenues
of the State; since that time no money has been
borrowed for any purpose. Default was again made
in the payment of the interest due January 1st,
1876, and again for the interest due July 1st, 1876,
and again for the interest due January 1st, 1877.
When the money for the payment of the interest
due July 1st, 1874, and January 1st, 1875, was provided,
there were balances amounting to about $60,000 98
not presented at the time, and the payment of
these balances was deferred until September 15th,
1876; in the preceding month the Comptroller of
the Treasury, under my direction, announced the
readiness of the State to pay these balances at that
time, together with the installment of interest due
July 1st, 1875; the Treasurer commenced the payment
at the time appointed, and all the coupons of
bonds registered to that date that have been presented
have been paid. 99

The present rate of taxation will not pay current
expenses and meet the interest on the State debt,
and the determination on the part of the people is
fixed and settled not to increase it. This conclusion
results from a want of ability on the part of
the taxpayer. The creditors of the State realize
the magnitude of our difficulties, and will make
such a concession as will make future interest payments
easy and certain. Their readiness to adjust
the debt is disclosed in the following communication: 100

"NEW YORK, December —, 1876.

"To His Excellency JAMES D. PORTER,
Governor of Tennessee:

SIR:—The undersigned holders of bonds of the State of Tennessee, believing that the

101 best interests of Tennessee, and of her public creditors, will be served by an early permanent adjustment of the claims of such creditors, on a basis honorable to the State and equitable to them, respectfully ask your Excellency, in the full belief that such a settlement is practicable, to recommend that the Legislature of Tennessee, as early as may be possible at its ensuing session, appoint a commission to come to this city and confer with the holders of bonds of the
102 State of Tennessee, for the purposes mentioned herein.

"We remain your Excellency's most ob'd't servants,

"GEO. SMITH, London, England,
by GEDDES & SMITH, Agents, etc.
"BROWN BROTHERS & Co., Agents.
"DREXEL, MORGAN & Co., Agents.
"E. D. MORGAN & Co.
"WARD, CAMPBELL & Co.
103 "JAMES G. KING'S SONS,
Agents for Holders.
"GEORGE W. STANTON.
"P. GEDDES."

These parties represent several millions of dollars of the bonds of Tennessee, and are gentlemen authorized to speak and act; and I am assured, from my correspondence with other creditors of the State, that this proposition will
104 be generally acceptable. I earnestly recommend the adoption of the suggestion for a conference with the creditors of the State. The proposition comes from the largest holders of Tennessee bonds. It had its origin with them, and the State can enter upon the negotiation with confidence, and without a sacrifice of her good name. It is of the first importance to the State that this vexed

question shall be settled and removed from the politics of the State. It is the one great barrier to present and future prosperity. 105

CRIMINAL EXPENSES.

I renew the recommendation made two years ago to the Thirty-ninth General Assembly, for the passage of an Act requiring the several counties to pay their own criminal expenses. The State has paid for this purpose, during the two years past, the sum of $389,585.63, and during the continuance of 106
our present system there can be no material reduction. Tennessee is one of five, out of thirty-eight States of the Union, where criminal prosecutions are made a charge upon the State Treasury; in thirty-three of them the counties where crimes are committed pay all costs, and the result in these thrty-three States is that the local officers are more active and vigilant in preventing extravagant charges, and I am satisfied that where local responsibility is provided, that bills of cost will be subjected to a scru- 107
tiny they cannot now receive; the Comptroller of the Treasury, in auditing these bills of cost, is only required by law to see that the several items are taxed in accordance with the Statute; if they were referred to the County Judge, or Chairman of the County Court, the necessity for their creation would be discussed, and, it is believed, the criminal law will be administered with more economy, and, by bringing the subject directly before the people, they would stimulate greater vigilance on the part of 108
officials, and require the punishment of criminals to be made with promptness. In cases where rewards are offered by the Governor for the capture of escaped criminals from the County Jails, if the counties were required to pay the reward, it would secure the construction of safe prisons, and more watchfulness on the part of the keepers.

109 THE INFERIOR COURTS.

There are thirty-six Judges of the Inferior Courts of Tennessee. In the neighboring State of Kentucky, with a population greater than our own, with the same character of people, there are twenty-four; compared with the other adjoining States, the inequality is against us in a greater degree. Something is doubtless due to the errors of our system, still it is clear that the inferior courts of the State are too numerous for the amount of business now 110 on their dockets. During the past year I caused circular letters to be addressed to the clerks of these courts, for the purpose of ascertaining the number of causes tried within twelve months, with the number and character of those docketed and undisposed of; about one-third of the clerks responded to these inquiries, and facts sufficiently numerous were elicited to show that a number of courts can be abolished without detriment to the public service.

111 The statements made by the clerks will be placed before you.

COST OF LITIGATION.

Citizens of the State complain that the cost of litigation is so considerable, that they are in many cases deterred from asserting their rights in the courts of the State; the complaint is a well-founded one, and I know of no more acceptable service to the public than the correction of this evil; costs paid by litigants in the courts of Tennessee are fifty 112 per cent. in excess of the costs paid by citizens of several of the adjoining States for the same service, and are unreasonable and excessive, and ought to be reduced.

FEES AND PERQUISITES.

I renew the following recommendation made in my message to the 39th General Assembly: "Much complaint is made by the taxpayers of the State at 113 the amount of fees and perquisites received by many officeholders in Tennessee. The compensation of all public servants should be reasonable, but no place should have attached to it such an income as will justify the employment of corrupt means in obtaining it, and I recommend the passage of a general law, limiting the incomes of all officials to a certain amount, and providing that all fees in excess of the prescribed limit shall be paid into the public treasury. 114

ARBITRATION COMMISSION.

Hon. S. W. Cochran, of Obion County, L. D. McKissick, Esq., of Shelby County, and Howell E. Jackson, Esq., of Madison County, were appointed and commissioned as a Special Commission, under the Act approved 18th February, 1875. In spite of the industry of the Judges of the Supreme Court, and the valuable labors of the Courts of Arbitration for Middle and West Tennessee, the business of the 115 Supreme Court continues to accumulate; under our present system of practice it is uncertain when the docket of this Court can be heard. The number of causes already filed at Nashville would occupy the Court for a year. It is needless to remind you of the fact that this state of things is the reasonable cause of much complaint, and that relief is demanded and expected by the country, not by another resort to temporary and expensive expedients, but by such a change of practice as will secure the citizen 116 against a recurrence of the present state of the docket. The transcript of the records of causes appealed to the Supreme Court are made voluminous by the incorporation of all records and the statement of all facts, material or otherwise, used in the Court below; the result is, that the larger part of the time of the Supreme Court is occupied in read-

117 ing and hearing a discussion of issues not pertinent, when if appellants were required by law to assign reasons for the appeal, by making a simple assignment of errors, the Court would always be advised of the issue involved in the litigation, and would be able to dispatch double the amount of business, and at an immense saving to the taxpayers; the adoption of this suggestion and the re-enactment of the Statute annexing a penalty by way of damages to appeals from judgments for money, will discourage
118 appeals that are not meritorious.

LEGISLATIVE EXPENSES.

Modern legislation has quadrupled the pay of the principal Clerks of the two Houses of the General Assembly for preparing the indexes for the journals and for copying and preparing the same for the printer, without a reason for this increased expenditure. The old standard of compensation was a liberal one, and I recommend a return to it.

119

SCHOOLS FOR THE BLIND AND DEAF AND DUMB.

The annual appropriation of five thousand dollars to each of these schools is no longer necessary; the per capita allowance of two hundred dollars per annum to the pupils of the State, is ample for the support of these schools.

IMMIGRATION.

120 I submit the report of the Commissioner of Immigration. The resources and advantages offered by Tennessee to the immigrant and to the capitalist have been generally and very intelligently advertised during the past two years, resulting in the investment of a large amount of money in our State; many immigrants have been induced to come to the State; they are generally people of substance, who

have been attracted by its fertile soil and genial 121
climate. The people have co-operated with the State officials in encouraging immigration, and their own peaceful and hospitable disposition has furnished the argument and the inducement to come to Tennessee.

I recommend the repeal of the act appropriating two thousand dollars to the Bureau of Immigration, and the passage of an act requiring the Commissioner of Agriculture, Statistics and Mines to perform the duties of Commissioner of Immigration, 122
without additional compensation.

APPROPRIATIONS.

I renew the following recommendation made to your predecessors: "Comptroller Burch, in his report to my predecessor, calls attention to the requirements of the Constitution, that money shall only be drawn from the treasury in consequence of appropriations made by law: *Constitution, Art.* 2, *Sec.* 24; and also to the requirements of the Code, 123
that the Comptroller shall, at stated times, report 'the unexpended balances of the several appropriations.' Notwithstanding this provision in the Constitution, with a legislative construction clearly indicated in the Code, it is believed that specific appropriations are the exception, and that for many years the public moneys have been expended without the authority contemplated by the Constitution. If that instrument is regarded and estimates required from the executive offices, the Legislature 124
is enabled to see what amounts may be necessary, and can place a check upon expenditures by prescribing a limit beyond which they shall not not go. The mere fact that an appropriation is to be made requires investigation of the amount necessary to be set apart for the purpose, and promotes inquiry into former as well as present expenditures,

125 while the system now practiced does nothing to insure a faithful performance of this important duty. Under the present system the Comptroller complains of the extent of the discretion practically left to him. He is to examine and adjust all accounts and claims against the State which are by law to be paid out of the Treasury: Code, 207, s. s. 1. With a proper system, nothing could be the subject of a warrant but such as had been included in some appropriation made by law." The Supreme
126 Court has declared "that an indebtedness of the State, fixed and recognized by law, was payable out of the Treasury without a specific appropriation."

Still, it is the duty of the General Assembly to make specific appropriations for the various purposes of the State, and relieve the Comptroller of the Treasury of the discretion now necessarily exercised by him.

CONVENTIONAL INTEREST.

127 I recommend the repeal of the law authorizing a conventional rate of interest as high as ten per cent.; the law has failed to meet a single promise of its friends, and its repeal is very generally demanded by the people of the State.

THE PENITENTIARY.

The Act of the Legislature, approved March 22, 1875, provided for a lease of the State prison and labor of the convicts for a period of five years, if
128 the highest bid offered was "satisfactory to the Governor and Inspectors." Notice of the proposed lease was duly made, and proposals invited. Only three bids were made; these were pronounced unsatisfactory, and the whole subject remitted to the General Assembly. I transmit the report of the Governor and Inspectors, with a detailed statement of their action. Subsequently I extended the lease

with the present lessees for the period of eight 129
months, for a rental of ten thousand one hundred and eighty-one dollars and seventy-five cents ($10,181.75) quarterly for eight hundred (800) convicts, and for any larger number the rent shall be proportionally increased. Said lease can be vacated by either of the contracting parties, at any time, on giving thirty days' notice in writing. A copy of the lease is herewith transmitted.

The present system of employing convict labor is
wrong; but I am not certain that the general senti- 130
ment of the people of Tennessee is not in favor of it. The taxpayers have been so heavily burdened in the past with taxes levied to support this institution, that there is danger that they will acquiesce in any policy, however mistaken or mischievous it may be, that secures them from taxation. If it is determined to lease the labor of the convicts, no authority should be given to the lessees to employ the convicts outside of the prison, unless it is done
where secure prisons can be provided, or upon the 131
islands of the Mississippi river, where escapes are almost impossible. It has been suggested that the State should employ the labor of the convicts in building or repairing public roads.

The State owes it to her citizens to employ this labor so as to avoid competition with the mechanics of the State; but it would be impossible to use it in the construction of roads without taxing the people heavily for their support, and for the support of a
strong force as guards. Under the late lease the 132
lessees were authorized to sub-let the labor of the convicts to farmers and railroad contractors, and the result shows that a large number of them have escaped in the face of the utmost watchfulness. I can suggest no plan for the employment of this labor that is not subject to objection; but, under existing circumstances, I do not see how another

133 lease of the prison can be avoided. If it is done, the employment of convicts outside the prison should be restricted to the iron and coal mines; and if the lessees are required to employ all the able-bodied convicts, whose punishment will allow them to be worked outside of the prison walls, in the mines, this would embrace a large per cent. of the labor, and will almost destroy anything like competition with the mechanical labor of the State. This plan will meet with the earnest opposition
134 of about three hundred respectable miners now engaged in mining coal; but so long as the Penitentiary system is maintained, the convicts must be employed at some manual labor, and this will bring them in competition with the fewest number, and will be productive of the good result of cheapening the price of coal and iron ore, and of stimulating the development of our manufacturing interests. The lessees should be required to receive the convict at his place of conviction. The State
135 has paid during the past two years, for bringing convicts to the State prison, $25,005.73. The lessees move convicts from point to point at a rate more than fifty per cent. less than is paid by the State.

The lessees now pay a reward of $25 (twenty-five dollars) for the capture of escaped convicts. It will cause more care and watchfulness on their part hereafter, if they are required to offer such reward as the superintendent of the prison may decide is
136 necessary, and be compelled to make publication of it whenever he decides that is is important.

INSPECTORS OF THE PENITENTIARY.

No necessity now exists for this office. The duties once required of them can be performed by the superintendent without an increase of compensation.

137 On the 8th of May, 1876, the Railroad Commissioners sold the Tennessee and Pacific Railroad at public outcry, to the highest bidder, to satisfy an unpaid balance due to the State, amounting to $150,000, with interest from July 1, 1870. The company became the purchaser, and has paid, through the counties of Davidson and Wilson, the sum of $178,000 in the bonds of the State, leaving a balance of $3,500 in bonds and $10,650 in cash unpaid, for the payment of which no provision has yet been made.

138 The Knoxville and Charleston Railroad was sold by the Commissioners to Messrs. O'Conor & Co. at the price of $75,000—one-fourth in cash, and the balance in one, two and three years. One-half of the purchase money has been paid in the bonds of the State, and with the bonds received from the counties of Davidson and Wilson, have been cancelled, and are on file in the office of Comptroller of the Treasury.

139 The Mississippi Central Railroad failed to pay the semi-annual interest due on 1st July, 1875, and 1st January, 1876, on the bonds loaned by the State. On the 25th day of February, 1876, I appointed R. P. Neeley, of the County of Hardeman, Receiver, and, under my directions, he took immediate possession of the road, and has been operating it in the interest of the State. Since this road has been in the hands of a Receiver it has been kept in good repair, its running expenses paid, and the sum of $60,000 paid into the Treasury of the State on account of taxes and interest. This management on the part of General Neeley occurred at a time of great business prostration, and is much to his honor and credit. Negotiations are now pending, by which the past due interest and sinking fund due from this company, and possibly the principal not yet due, will be paid at an early day. 140

141 **MEMPHIS AND LITTLE ROCK RAILROAD.**

I invite attention to the following statement of facts made by my immediate predecessor in his message to the Thirty-ninth General Assembly. It discloses the reason why I have not taken action under Resolution number 72, adopted by the same legislature, instructing the governor to institute suit for the enforcement of a claim of the State against this company:

142 "The act of the 21st of February, 1856, extending aid to the Little Rock Railroad Company authorizes the governor of the State to endorse 350 bonds of the City of Memphis, for one thousand dollars each, to be paid to the Memphis & Little Rock Railroad Company, *provided* the said Memphis & Little Rock Railroad Company should first endorse each of said bonds, guaranteeing payment of principal and interest of the same, and *provided further*, that the City of Memphis shall first, by its proper
143 authorities, execute a mortgage, giving to the State of Tennessee a priority of lien on the stock and interest of said city in said railroad company; and *provided further*, that said railroad company shall give to the State of Tennessee a prior lien upon the whole of the iron and equipments upon the first division of said road, extending from Memphis to the Saint Francis River in Arkansas, &c. Section 12 of said act provides further, 'That the said city bonds shall not be so endorsed until the proper au-
144 thorities of the City of Memphis shall provide and set apart a fund known as a sinking fund; out of which shall be paid, over and above the six per cent. interest, two per cent. per annum on the said bonds, commencing five years from that date.'

"These bonds were issued, and in 1856 and 1857 endorsed by the Governor of the State. After a careful examination of the archives of the State, I

have been unable to find any mortgage upon the 145
stock of the city of Memphis in said road, or upon the iron and equipments of the first division of said road. I have caused search to be made also in the Register's office at Memphis, and in the proper offices in the State of Arkansas, for some registration of such mortgages, but without avail, and I can find no evidence that such mortgages have, in fact, been made. The execution of these mortgages, and providing a sinking fund, were conditions precedent to the right and power of the Gov- 146
ernor to endorse said bonds, and the liability of the State did not attach in the absence of a compliance with such conditions."

I am satisfied the mortgages referred to by Governor Brown were never executed, and that the State has no lien, as is assumed in Resolution 72.

Holders of these bonds endorsed by the State have demanded payment of the past-due interest, and, without any legislative declaration on the sub- 147
ject, I have not hesitated to say the State was in nowise responsible for its payment, or for the payment of the bonds at maturity.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

I commend to your earnest consideration the report of this officer, herewith transmitted, and to his more elaborate report of a year ago, copies of which will be furnished to you. The present incumbent has been zealous and untiring in his efforts to ad- 148
vance the cause of education, to popularize the *common school*, and to teach the public that it is to that agency we must look at last for the diffusion of that noble lesson of our own State Constitution, "that knowledge, learning and virtue are essential to the preservation of republican institutions."

The reports of the Secretary of State, the Libra-

149 rian, and Superintendent of the Capitol, are transmitted for your information.

STATE NORMAL COLLEGE.

Under the Act of March 23d, 1875, I appointed J. B. Lindsley, Edwin H. Ewing, Samuel Watson, R. W. Mitchell, L. G. Tarbox, and John J. Reese, as the State Board of Education. Recently J. W. Hoyte and Leon. Trousdale were appointed members of the Board *vice* Samuel Watson, deceased,
150 and L. G. Tarbox, resigned.

The Board of Trustees of the University of Nashville gave to the State Board the use of its buildings, and the school was located at Nashville.

The Board of Trust of the Peabody Education Fund donated to the school for the first scholastic year the sum of $6,000, and $9,000 for the present year. The school is now in successful operation under Dr. Eben S. Stearns, as president, with a corps of competent teachers, and is a first-class in-
151 stitution for the education of teachers. It has not been a charge upon the treasury or upon the people of the State, and furnishes gratuitous instruction to all comers. The institution is supported by the Peabody Board of Trust. This support will be withdrawn at the close of the present scholastic year, and I earnestly appeal to the General Assembly to provide the means necessary for its maintenance, not by a new levy of taxes, but by the appropriation of $10,000 of the school fund not pro-
152 vided by law. The withdrawal of that amount will add materially to the efficiency of the public school system, and will maintain an institution full of promising results to the educational interests of Tennessee. The great defect of our school system is the want of competent teachers. This school will supply this want, and furnish them from our own people.

For the history of the operations of this school I 153
refer to the report of the State Board of Education,
made to the Superintendent of Public Instruction.

BUREAU OF AGRICULTURE, STATISTICS AND MINES.

In transmitting the report of the Commissioner of
this Bureau, I adopt the following article, taken
from the editorial columns of the leading mining
and manufacturing journal of this continent, *The
Iron Age*, published in the city of New York: 154

"THE TENNESSEE BUREAU OF MINES.

"Of late years the attention of ironmasters, both
at home and abroad, has been constantly directed
to the South, and especially to Tennessee. Pro-
bably at this time there is more inquiry as to its
mineral resources, from foreign capitalists, than
concerning those of all the rest of the Southern
States. A million dollars of British capital have
already been invested within the past two years, and 155
there is a strong probability that this is but the
foretaste of other millions. For this result the
State is indebted to its wonderful resources, but also
in a large degree to Col. J. B. Killebrew, Chief of
the Bureau of Agriculture, Statistics and Mines, of
that State. We acknowledge our great indebted-
ness to him personally, and to his various pub-
lications for information which we have uniformly
found trustworthy. During the two years this
bureau has been in existence 4,000 copies of the 156
Resources of Tennessee, a book of 1,200 pages, have
been distributed, besides 8,000 abridgements. Prof.
Huxley, speaking of the work and its author, said:
'I am indebted to this most admirable work, of
which a copy was presented to me yesterday, a re-
port of the Resources of Tennessee, which, in my
judgment, does infinite credit to the State that paid

157 for it and the person who put it together, which I do not profess to have read since yesterday, yet out of which I have contrived to pick the sort of information I want of the structure of the region where we now stand.'

"We have heard it whispered that some persons in Tennessee have suggested the abolition of this Bureau. Such a course would be most short-sighted, and occasion the highest injury to the State. Tennessee needs capital from abroad, and this
158 Bureau has brought it. Col. Killebrew is wise enough to see that it is not alone in the development of its mineral resources that wealth is to be found, but in the agricultural as well, and his effort has been to bring in capital to this end. No State can, at the present day, afford to dispense with such agencies, because capitalists look for information from official sources, and not from parties who wish to sell, and we speak from personal knowledge and examination when we say that the publications of
159 Col. Killebrew are among the fairest statements of the resources of a State we have ever seen. Governor Porter, in his canvas of the State, said: 'Our resources have been advertised all over this continent, and in many parts of the old world. Any man who has been looking for a farm, for a water-power, for a mine of coal, iron or copper, has had his demand for information supplied from this Bureau; and I state it as a fact, the climate, soil and productions of the State of Tennessee have been
160 more generally and intelligently advertised than those of all the States of the South combined.'

"It would be a source of the greatest regret to those who know its value, if the Bureau were to be discontinued.

"So competent and conscientious a public officer cannot be spared until the great work he has undertaken, and thus far successfully performed, is fairly

completed. If every Southern State had placed the 161
work of acquainting the public with its resources in
equally competent hands, immigration would have
been less difficult to obtain, and capital more disposed than now to seek investment there."

BUREAU OF INSURANCE.

State supervision of the business of insurance is
necessary for the security of the citizen and for the
protection of solvent companies; this supervision
is now exercised by the State Treasurer, who is *ex* 162
officio Commissioner of Insurance. The duties of
Treasurer demand the undivided time and attention
of that official; his duties as Commissioner of Insurance are necessarily secondary to that, and he
cannot give to the business of insurance the attention it deserves. The law requires that he shall,
under certain circumstances, visit and examine any
insurance company in the State; he cannot do this
without neglecting the more important duties of the 163
Treasurer's office.

I recommend that the office of Commissioner of Insurance be made separate and independent; the fees now authorized by law will be ample compensation for the services of a commissioner. I transmit the report of the Commissioner of Insurance, and commend his recommendations to your consideration.

UNITED STATES SURVEY OF TENNESSEE.

164

It affords me pleasure to announce that principally through the representations of Dr. J. M. Safford, State Geologist, the Superintendent of the United States Coast Survey, concluded, during the year just closed, to inaugurate, and is now actually carrying on, a geodetic or correct surface survey of Tennessee. This is in accordance with an act of Congress,

165 providing that in States in which geological surveys are in progress, the United States Coast Survey may institute geodetic work for the benefit of such geological surveys. The surface survey thus inaugurated within our borders is one of primary importance. Its results cannot fail to be of great service, and that too, without cost to the State. Tennessee is deplorably deficient in the matter of correct maps. There is no map of the State worthy of the name, nor can there be until such data are at
166 hand as will be supplied by the operations of the Coast Survey. Good maps are needed, not only to meet the wants of geological delineation, but for educational, commercial, political, and numerous other purposes. Such we are now in a fair way to have. The Coast Survey will, doubtless, within a reasonable time, supply a complete outline map of the State, based on accurate instrumental observation and trigonometrical calculations. This work in Tennessee is under the general direction of Dr.
167 Safford, as State Geologist, and is executed by Prof. A. H. Buchanan, of Wilson County, who holds his place under the Superintendent of the Coast Survey, to whom he reports, and from whom he receives all instructions as to the details of the work. It is thus in the hands of well-informed and able gentlemen. Out of the yearly appropriation made by Congress for the benefit of the Coast Survey, $2,000 were set apart for the work in Tennessee. The survey was commenced last summer, Dr. Saf-
168 ford selecting the part of the State lying between Nashville and Knoxville, as the initial region. Considering the shortness of the time a large amount of very satisfactory work has been done. The country designated has been reconnoitred and provisionally mapped; suitable points have been selected for stations, and a base line located. The latter runs over ground in the vicinity of Lebanon,

and will be measured during the summer. Reconnoitering has been commenced west of Nashville, and will be extended to the Mississippi river so soon as practicable. For further information in regard to this work I refer you to the report of the State Geologist, to be made to you at an early day. To facilitate the survey so auspiciously commenced, I recommend the passage of an act authorizing the surveyors to run the necessary lines upon lands within the State, to adjust damages, if such should occur, and for the protection of signals, marks, monuments, and other property pertaining to the Coast Survey. 169 180

PROTECTION OF SIGNAL LIGHTS ON THE MISSISSIPPI RIVER.

The Federal Government has established a number of signal lights, and other aids to navigation on the banks of the Mississippi river, in the State of Tennessee; at certain points malicious persons have interfered with these aids to navigation; lanterns have been broken and lights extinguished, thus endangering steamers and other vessels navigating the river. This is a subject of public concern, and I recommend the passage of an act protecting these aids to navigation, with a provision for the punishment of persons injuring or destroying them. 171

STATE BOARD OF HEALTH.

The necessity for the creation of a State Board of Health is commended to your attention. In the twelve States where such a board is provided, very much has been accomplished by arousing the public to a sense of the necessity for the adoption of sanitary measures in order to prevent the operation of causes productive of disease. 172

Since the completion of our railroad system a large per cent. of the population of the State is in

173 direct and daily communication with some one of the great centres of population, and citizens of the agricultural districts are as subject to epidemical diseases as the inhabitants of the cities and towns, and have a common interest in the adoption of preventive measures.

If, by the adoption of this reform, disease can be mitigated or prevented, or the life of a single citizen saved, to that extent it will be a contribution to the wealth of the State.

174

THE MILITIA.

At the request of the Secretary of War the Adjutant General of the State recently made to that officer a report of the military strength of Tennessee; this report shows that we have within the military age 239,764 men; that we have no complete or efficient military organization except a few volunteer companies.

I submit to the General Assembly the propriety
175 of giving force and effect to our Declaration of Rights "that the sure and certain defense of a free people is a well regulated militia."

INSPECTORS OF ILLUMINATING OILS AND FLUIDS.

The act creating this office has been productive of much good to the people of the State in protecting them from the use and purchase of spurious and dangerous burning fluids. The fee now allowed the inspectors should be increased, that allowed under
176 the existing act is so inadequate that in the small towns inspectors cannot afford to provide themselves with the necessary instruments for the testing and guaging, or weighing the fluids, and the result is there are now only seven inspectors on duty in the State.

I transmit the report of the inspectors at Nashville, Memphis, Jackson, Brownsville and Chattanooga.

CENTENNIAL EXPOSITION AT PHILADELPHIA. 177

I transmit the report of Gen. J. T. Wilder, Commissioner from Tennessee; his services have been of great value to the State, and should receive suitable recognition from the General Assembly.

I also transmit the biennial report of the Trustees of East Tennessee University concerning the State College, with the report of the Treasurer of that institution.

HOSPITAL FOR THE INSANE. 178

The act of 23d March, 1875, directed the Governor, Comptroller, and Treasurer of the State to sell the "land purchased by the State for the location of Hospitals for the Insane in the Eastern and Western divisions of the State," "provided said lands shall not be sold for less than three-fourths of its original cost." No lands were bought in the Western division; in the Eastern division a tract was purchased, and is now the property of the State. 179 This tract of land should be sold, and the terms should be left to the discretion of the officers mentioned in the act referred to; under section 3 of the same act, I appointed James S. Boyd and J. M. Carter, of Knox County, to act in conjunction with the Attorney-General to make settlements with all "persons to whom the State is indebted on account "of said Hospital for the Insane;" their report is on file in the office of the Comptroller of the Treasury.

180

THE NAVIGATION OF THE TENNESSEE RIVER.

In pursuance of Senate Joint Resolution, No. 64, I have appointed a Board of Commissioners to consider plans by which the passage of railroad bridges can be made in safety by boats navigating this river.

The Commissioners have made no report.

181 GEOGRAPHICAL CONGRESS AND SYNDICATE OF TRADES.

In pursuance of Resolution No. 52, adopted by the 39th General Assembly, I appointed Commissioners to the Geographical Congress and Syndicate of Trades, held at Paris, France, in August, 1875. Four of the Commissioners, Messrs. Bronson Bayless, Albert Akers, Nathan Adams, and Volney S. Stephenson, were in attendance, and through their agency a diploma was awarded to the State of 182 Tennessee.

The Commissioners have as yet made no official report.

A. O. P. NICHOLSON,

Chief Justice of the Supreme Court of Tennessee, died the 23d day of March, 1876. Few citizens of Tennessee have been honored like this distinguished man; member of the General Assembly, Chan- 183 cellor, President of the Bank of Tennessee, delegate to the Constitutional Convention, Judge of the Supreme Court, Senator in Congress, and to his greater honor and credit it can be said, that in the performance of all the high trusts committed to him by his fellow citizens, he never deviated from the line of principle and integrity.

The General Assembly will respond to the sentiment of the people of Tennessee by giving expression to their feeling of sorrow at the death of this 184 eminent man, and that of his illustrious compeer,

ANDREW JOHNSON.

On the 31st day of July, 1875, Senator Andrew Johnson, the seventeenth President of the United States, departed this life. The death of this illustrious private citizen and eminent public officer, brought deep sorrow upon the public heart, and the general bereavement has become the more bitter by subsequent political development, threatening alike to freedom and our free institutions, in which, had he lived, he would have acted a conspicuous part in behalf of the people whose cause he made his own. The life of the deceased is full of encouragement, illustrating that neither humble origin, poverty, or want of sound influences in early life, present insuperable barriers to the triumph of an indomitable will and free spirit. 185

186 The life of this distinguished man must pass into our country's history, and while it is open to the criticism of opponents and the admiration of friends, all admit that it would be impossible to draw a circle of a great man and wholly exclude therefrom Andrew Johnson.

His hopes in the future of our country were based upon the following sentiment, uttered to a friend, as he was leaving his home for the last time: "Our country supplies its own saving power in the honesty and patriotism of its people." May the people be equal to the present troubles! 187

As Chief Executive I attended his funeral, and tendered to his family a spot upon Capitol Hill as his last resting place.

The death of Senator Johnson created a vacancy in our representation in the Senate of the United States, and I commissioned Hon. D. M. Key, of the county of Hamilton, to fill the same *ad interim*.

FEDERAL INTERFERENCE WITH STATE GOVERNMENTS. 188

The representatives of the people of Tennessee cannot disregard the recent action of the Federal authorities in certain States of the South—notably in Florida, Louisiana, South Carolina, and Virginia; in three of them towns and districts have been gar-

189 risoned with troops of the United States at a time of profound peace, without any proper demand being made for assistance by the local authorities, and the State House of South Carolina was subjected to an armed occupation by Federal troops. The army was made the arbiter of a disputed election, and has been prostituted to the base purpose of organizing a partisan Legislature. The order of a subaltern, excluding the representatives of the people from the State Capitol, was made impudent-
190 ly and without shame, in the interest of judicially declared fraud, and against the judgment of the law as rendered in the highest court.

The representatives of the people of Tennessee should protest against these accumulated outrages with the utmost solemnity and energy.

CONCLUSION.

I earnestly recommend that bills for the appropriation of money be considered at an early day.
191 The pernicious custom of postponing the consideration of a question of the first importance to the country, to the closing hours of the session, encourages hasty and inconsiderate legislation, and the appropriation of money without discussion, to purposes of doubtful propriety.

JAS. D. PORTER.

EXECUTIVE OFFICE,
Nashville, Tenn., Jan. 1, 1877.

192

EXHIBIT NO. 2.—J. D. P. 193

NEW YORK, Feb. 15th, 1877.

To His Excellency James D. Porter,
Governor of the State of Tennessee:

SIR: On the 26th of December last, we had the honor of addressing to your Excellency a letter on the disordered condition of the public debt of the State of Tennessee, of which we are owners and the representatives of owners of a large amount, and of conveying to you in same an expression of 194 our confidence and belief that a permanent adjustment of the debt on a basis equitable to the holders of it and honorable to the State was practicable, begging that your Excellency would recommend to the Legislature to appoint a commission to come to this city and confer with the creditors of Tennessee, with a view of bringing about such an adjustment.

We have the honor to acknowledge the receipt of communications to us severally addressed by your Excellency, accompanied by a resolution of 195 the Legislature of Tennessee, approved on 27th January, ult., in which the holders of the public debt of the State are invited to submit to the General Assembly, through your Excellency, propositions for an adjustment of said debt, and at the same time to most respectfully express to your Excellency, and through you to the Legislature and people of Tennessee, our great regret and disappointment that the Legislature did not think it expedient to appoint a commission to come to New 196 York, to confer with the creditors of the State for the purpose mentioned, because such a conference we still believe would have developed a plan of adjustment that, while doing equity to the creditors of Tennessee, would, by bringing her revenues and finances into harmonious and easy working order, restore her credit, and again place it firmly

197 on the high and solid ground it once occupied, offer encouragement to capital to seek employment within her borders in the development of her unsurpassed natural resources, and result in the greatest good to the people of the State generally, enabling them to transmit to posterity, together with the good name which they inherited, a heritage far richer than had come down to them from their fathers.

We have carefully considered the liabilities and
198 resources of Tennessee.

We know that her great wealth of mine, field, and forest are only in the infancy of development.

We know, also, how much the future development of the vast, but now comparatively latent, resources of the State depends upon a restoration of her credit and the re-establishing of her financial system on a sound basis, and knowing, moreover, that the public creditors of the State would be benefited, in common with the people of Tennessee,
199 by a restoration of her credit, and by giving her a healthy fiscal system, we beg leave to submit to your Excellency, and through you to the Legislature and people of Tennessee, the following propositions as to what can be done by the people of Tennessee, with the co-operation of their public creditors, for the immediate adjustment of their public debt, and for its ultimate extinguishment in an easy, gradual, and feasible way—a way which, if adopted, we feel very sure we hazard nothing in
200 saying will be productive of the most beneficent results to the people of Tennessee.

It will be observed how essential to the success of the plan we submit for present adjustment and ultimate extinguishment of the State debt, will be the cordial co-operation of both debtor and creditor, and to what extent we propose that the public creditors of Tennessee shall contribute to its success.

We propose: 201

1. That the revenue laws of the State shall be amended so that the collection of taxes may be assured at the time or times when they become due and that at the smallest possible cost to the taxpayer.

2. That the reforms proposed and recommended to the Legislature by your Excellency in regard to the cost of county criminal prosecutions be enacted into a law. 202

3. That the expenses of the State Government be reduced to as low figures as is consistent with the maintenance of its dignity.

4. That the present rate of taxation be maintained, and that the other sources of revenue be not diminished.

5. That the State levy annually a special tax of one mill on the dollar of taxable property, the proceeds of which, in every year, together with 203 any surplus revenue, shall be used in the purchase, cancellation, and destruction of the new issue of bonds which it is proposed herein to issue for existing bonds and past due coupons of July 1st, 1877.

6. That the Legislature pass a law authorizing the funding of all outstanding bonds of the State, of all past-due coupons thereon, and of the coupons which will fall due on July 1st, 1877, into new 204 bonds of the State bearing date July 1st, 1877, and having fifty years to run to maturity, bearing interest for a period of five years from their date at the rate of three (3) per cent. per annum; for a second period of five years thereafter interest at the rate of four (4) per cent. per annum; for a period of five years from the termination of the last men-

205 tioned period interest at the rate of five (5) per cent. per annum; and thereafter, until maturity and payment, interest at the rate of six (6) per cent. per annum. Interest upon each bond to be payable semi-annually on January 1st, and July 1st, in every year from and after its date, and the coupons evidencing it to be receivable by the State for all taxes and dues payable to the State; and bonds to be for $100, $500, and $1,000 each.

The debt of the State, as may be readily ascer-
206 tained, will be within her control and easy power to manage and protect from the start, if, as we sincerely hope may be the case, the plan herein outlined is availed of, and we may add that our aim has been to make it within the easy power of the people of Tennessee to avail of it.

As will be perceived by your Excellency, the Legislature and people of Tennessee, the public creditors of Tennessee, in acquiescing in this proposed plan of co-operation between them and the
207 people of Tennessee for restoring the credit of the State, and ultimately extinguishing her public debt, will voluntarily relinquish about $7,000,000 of their claims against Tennessee—an amount equal to about one-third of the entire amount of her public debt.

On the other hand, we propose that the people of Tennessee adopt the easiest and simplest mode which we can conceive of for the ultimate extinguishment of their entire public debt, a mode which, while it will only produce the very moderate annual
208 sum $268,000 at the present low valuation of property, will, by its silent but sure work, pay off the debt completely, while, by its operation, it will so reduce the amount upon which, under this plan, interest will require to be paid, that at the expiration of each period for an advance in the rate, the reduced amount for which interest will have to be provided, and the certain increase in the value of

property, will together work to make the present 209
rate of taxation quite sufficient to meet all demands upon the State.

During the first fifteen years of the currency of the proposed new issue of bonds we estimate that the proposed special tax for its ultimate payment will pay off between $5,000,000 and $6,000,000 in bonds, allowing twenty per cent. of the tax for its collection and the expenses connected with buying bonds with the proceeds.

When it is considered that this can be accom- 210
plished at so small an annual charge to the people of Tennessee, and that such certain beneficial results to them are sure to follow, we have the greatest confidence that their loyalty to Tennessee, their determination to preserve and perpetuate her honor and good name, will be sufficient to induce them to make the manly effort to that end of unitedly raising a one-mill tax on their property annually.

We are quite well aware of the partial failure of
crops in Tennessee in the years 1873 and 1874, and 211
of the depressed condition of business, and of all industries in the State, but throughout the country their exists the same depression — stagnation.

In full recognition of this depression and stagnation, which there is every reason for believing will soon give place to better times, we have in the plan herein submitted for a rearrangement of the finances of Tennessee, made her obligations within
her means and evident ability to meet now. 212

With the existing rate of taxation, and the proposed special tax for the extinguishment of the debt, which together make a five-mill tax, it may not be improper to compare the rate of taxation in the States which border on Tennessee:

213

	Mills.
In Arkansas the rate is................	10
In Mississippi the rate is...............	6½
In Alabama the rate is...............	7
In Georgia the rate is..................	5
In North Carolina the rate is...........	$3\frac{3}{10}$
In South Carolina the rate is...........	12
In Virginia the rate is.................	5
In Kentucky the rate is...............	4½

214 In conclusion, we beg to express to your Excellency, and through you to the Legislature and people of the great State of Tennessee, our confidence that all will unite with us in this effort to make it possible to avail of the proposed co-operation of the creditors of Tennessee to bring about so desirable a result as the re-establishment of her credit on a plan so favorable as we have herein outlined, and we have the honor to be, your obedient servants,

215 George Smith, of London, England,
by Geddes & Smith, Agents, &c.
Brown Bros. & Co., Agents.
Drexel, Morgan & Co., Agents.
E. D. Morgan & Co., Agents and owners.
James G. King's Sons,
as agents for bondholders.
Ward Campbell & Co., agents.
G. W. Stanton, Jr.
P. Geddes.

216

We concur in the foregoing:

Calvin Stevens,
by C. Amory Stevens, Attorney.
J. V. Clark, President, Chicago,
per Thos. G. Robinson.
Wm. G. Creamer, No. 96 John Street.
Chas. J. Hine, New York.

A. Iselin & Co., as Attorneys, New York. 217
W. R. Jenkins, New York.
Mrs. Josephine S. Newcomb,
by H. Pomeroy, No. 54 Broad street.
George Watson, Chicago.
per Jas. H. Smith.
Jno. H. Macy, President.

Henry E. Johnston,
Johnson Bankhead & Co., Agents,
Thomas F. Andrews,
M. Abrams, 218
William De Gory, } Baltimore.
Samuel L. Peters,
Wilson, Colston & Co., Ag'ts,
John S. Gittings,

EXHIBIT No. 3.—J. D. P.

Message of Governor Jas. D. Porter to the Fortieth General Assembly of the State of Tennessee.—First Extra Session.—December 5, 1877. 219

Gentlemen of the Senate and House of Representatives:

I have convened the General Assembly in extraordinary session for the purpose of considering the following recommendation to adjust the State debt: "*That after adding the arrears of interest the* 220 *aggregate amount of the State debt should be readjusted by the issue of new bonds at the rate of sixty per cent. of the total amount;* i. e., *for every sum of one thousand dollars, new bonds should be given in exchange and full settlement for six hundred dollars, or for proportionate amounts, the new bonds to carry six per cent., payable semi-*

221 *annually in the City of New York, the principal payable in thirty years, the interest coupons to be received by the State for all taxes.*"

This is the recommendation made by a Committee of Arbiters, appointed at a meeting of citizens held at the Clearing House in New York City in January, 1877. In a special message, I urged the General Assembly to send this committee of conference, and recommended that all questions touching the
222 State debt "be postponed to await the action of the arbiters," and announced that if this policy was adopted, "and if time becomes essential, I will not hesitate to convene the General Assembly in extraordinary session."

On the 19th of March, 1877, the Legislative Committee reported to the General Assembly the result of the conference: seven days thereafter the two Houses adjourned without taking action upon this report. Under the circumstances mentioned I have
223 recognized it as my duty to call you from your homes to consider this recommendation, and to respectfully and earnestly recommend its adoption.

Since the adjournment of the General Assembly, the debts due from the Memphis & Charleston and Mississippi Central Railroads, have been paid; deducting the sum of $299,814, the amount of the debt of the Mississippi & Tennessee Railroad, not due, and for which the State has ample security, the debt of the State on the 1st January, 1878, will
224 amount to $23,212,606; this includes the bonded debt not due, the bonded debt past due, five full instalments of interest, and balances of several instalments not presented, amounting to $40,000. The greater part of this debt was incurred prior to 1861. The following table exhibits the amount issued since the late war between the States, the amount canceled and the amount now outstanding:

225

	Registered and not canceled.	Registered and canceled.	Canceled before registration.	East Tennessee University.	Mineral Home.	Unaccounted for.	Total.
Green, no letter....	2,388	321	7,021	113	120	37	10,000
" " "B"..	646	114	4,283	100	......	61	5,203
" " "C"..	598	60	1,401	2	......	139	2,200
White, " "D"..	2,416	429	2,006	37	......	53	4,941
Grand Total.....	6,047	924	14,741	252	120	290	22,344

226

The first series, Green, no letter, were issued under
the Act of 1851-2, and amendments, $9,593,000
issued to railroads and turnpikes, and $407,000 were
renewals of bonds past due. The second series, 227
Green "B," were issued under authority of the
Act of 1851-2, $290,000 were renewals for past due
bonds, the balance issued to railroads and turnpikes.
The third series, Green "C," and fourth series,
White "D," issued under Acts of 1866 and 1868,
were for past due interest, and known as Funding
Bonds. This table shows that there are now outstanding
$3,033,000 of the bonds popularly known
as "Brownlow Bonds."

228 The debt is accumulating at the rate of four thousand dollars per day, and if the present condition of affairs continue, it is an easy calculation to determine how soon the debt will gain volume enough to destroy the prosperity of the State and bring discredit upon all of its citizens.

229 THE VALIDITY OF THE DEBT.

No question can now arise as to the validity of the public debt with the exception of the inconsiderable amount issued to Mineral Home Railroad, which has been declared fraudulent; the people of Tennessee through their representatives have in the most formal and solemn manner recognized it by the bonds of any series being declared receivable in payment of the purchase money for delinquent rail-
230 roads. It was again recognized by the funding act of 1873, by which the obligation of the State was renewed to pay interest on the entire debt and the principal at maturity, and the validity of the several series of bonds have been recognized by the 39th and 40th General Assembly by being declared receivable in discharge of debts due to the State, and I assume that no judicial tribunal would now pronounce against the funded and registered bonds.

But the New York arbiters say in the report made
231 to the General Assembly, after full discussion with the Legislative Committee, "when all the circumstances under which the debt was incurred, the peculiar condition of affairs in the State together with its present ability and its future resources," that the compromise recommended by them is "just and fair both to debtor and creditor." The adoption of this recommendation of a tribunal so disinterested and distinguished, without consulting the holders of our bonds, would relieve the State of the sus-
232 picion of unfairness or of the charge of repudiating an acknowledged liability. But such a number of the bondholders have signified their willingness to accept the terms of the adjustment as to satisfy me that if it is made it will be generally acceptable. I transmit the proposition of the bondholders. The terms are liberal to the State, the creditors voluntarily make the suggestion, and it is consistent with

the dignity of the State to accept the abatement. 233
The financial condition of the State is the only barrier to immediate prosperity. Its greatest want is capital and immigration. Both will avoid us unless the public debt is provided for. Men do not buy where the tenure of property is insecure, or where public obligations are disregarded. One of the highest duties of the citizen is the maintenance of the public credit; without it little is left worthy of public preservation.

234

THE ABILITY OF THE STATE.

There is to my mind no question as to the ability of the State to meet the interest on the debt, if adjusted upon the terms offered by its creditors. The present assessed value of the property of the State is $236,000,000, and is an unusually liberal one to the taxpayer. Tennessee contributes to the markets of the world, with her cotton, grain and tobacco, as largely, and is as rich in soil, minerals and productions as any State in the Union. The value of the 235
principal crops raised in Tennessee during the year 1876, amounted to $47,126,310, not less than one-third of which was surplus. The productions of the State of Kentucky for the same period was $2,687,560 less. Tennessee produced seventeen millions more than Virginia, three millions more than Georgia, more than Maryland and South Carolina combined, mor than Alabama and Florida, and seventeen millions more than North Carolina, while the difference in population is in favor of Kentucky and Georgia, 236
and Maryland and South Carolina combined. The productions of the State for the year 1877, amount to over $52,000,000, with an increased surplus of cotton, wheat and tobacco, and the value of farm products is greater per capita in Tennessee than it is in any of the States named, and greater according to the last census report than it is in the rich

237 States of New York, Pennsylvania and Missouri. There are other productions of the State, cattle, mules, horses, sheep, bacon, fruit, marble, iron, from which large revenues are derived, with an increasing area and capacity for production.

The bonds of the State were issued for purposes of internal improvement, very many of them were sold above par, and are now held by the original purchasers, by educational and charitable institutions; among the latter class is the Peabody Insti-
238 tute, at Baltimore, Maryland, which has signified through the proper officer a willingness to accept the terms of the proposed adjustment; the greatest American philanthropist, George Peabody, left as part of the endowment to this institution that bears his name, $364,000 in the bonds of the State of Tennessee. Since 1868 the children of Tennessee have received from the Peabody Trust Fund, for their education, the sum of $191,650, and for the year 1878, an appropriation that will make it
239 exceed $200,000. The State of Tennessee cannot, in my opinion, accept this abatement, or that proposed by the holders of bonds issued for the erection of the capitol, those held by educational institutions, by charities, or by persons whose guardians made the investment in pursuance of our statute authorizing the investment of the estate of minors in the bonds of the State.

If the adjustment recommended is adopted I recommend that the new bond shall bear date July
240 the first, 1878, to carry interest from that date; provision for a sinking fund can with propriety be postponed, but in case of a surplus in the Treasury after liquidating the appropriations made by law, it would be well to provide for its investment in the bonds of the State, and in this way inaugurate a system for the gradual extinguishment of the principal of the debt.

241

The Comptroller of the Treasury, in his biennial
report to the General Assembly, states that "it is be-
lieved that the compensation allowed Trustees is
inadequate to the labor and responsibility of the
office, especially in the smaller counties, where there
is little or no municipal taxes to be collected," ex-
perience has confirmed the wisdom of this recom-
mendation ; in one of the Counties of the State there
is no Collector, no one being willing to accept the 242
office for the compensation allowed by law ; in sev-
eral others, resignations have been tendered. The
revenue cannot be efficiently collected in the smaller
counties for an inadequate compensation, and I re-
commend such an amendment to the statute as will
secure this result.

It will be necessary to provide by law for the expenses of this extraordinary session of the General Assembly.

CONCLUSION. 243

The gravity of the question submitted to you will, I doubt not, command your most deliberate consideration ; counselling wisdom and calmness in its discussion, I leave it with you in the confident belief that your action will be controlled by your convictions of duty to your constituents.

JAMES D. PORTER.

244

245 DOCUMENTS ACCOMPANYING THE GOVERNOR'S MESSAGE.

Letter from John B. Manning, New York.

NEW YORK, November 1st, 1877.

To His Excellency, JAS. D. PORTER,
Governor of Tennessee:

I am authorized on behalf of a large number of Tennessee bondholders to submit proposition of
246 compromise by accepting sixty cents on the dollar for bonds and past due coupons, payable in new six per cent. consols, and ask you to convene the Legislature to carry out the compromise.

JOHN B. MANNING.

(Represents $2,000,000.)

---

247 *Letter from A. R. Hall, Huntington, Tenn.*

HUNTINGTON, TENN., November 23d, 1877.

Governor JAMES D. PORTER:

Sir—Since writing you yesterday I notice that the terms of my proposition differ somewhat from those contained in your proclamation. In order that not the least obstacle may be thrown in the way of settlement I am willing to accept the terms put forth in your proclamation.

248 Very respectfully,

A. R. HALL.

Letter from G. W. Norton & Co., Louisville, Kentucky. 249

Louisville, Ky., October 27th, 187

James L. Gaines, Esq.,
Comptroller,
Nashville, Tenn.:

Dear Sir—Your favor of the 25th instant is received and noted. As stated in ours of 24th instant, the members of this firm have held and owned Tennessee 250 State bonds for more than twenty years, having faith in them as a safe and good investment. The Clearing House Committee, of New York, Geo. S. Coe, Esq., Chairman, recommended an adjustment of the State debt of Tennessee by issuing a new six per cent. bond, with coupons receivable for all taxes and due to the State, to the extent of sixty per cent. of the principal and accrued interest of the present outstanding State bonds, and if the Tennessee Legislature 251 would certainly adopt this plan of adjustment, without any modification whatever, we would be willing to accept it, as far as we are concerned, and, as stated in ours of the 24th inst., we believe it would be generally accepted by the bondholders if promptly offered; but, in our opinion, the bondholders would not accept any less than this. If the Legislature will certainly adopt the Coe recommendation, then we should be pleased to see an early called session of the Legislature. We have no objection 252 to you placing this letter and ours of the 24th inst. in the hands of Governor Porter, as suggested by you.

Truly respectfully,
G. W. Norton & Co.

253 *Letter from Eugene Kelly, New York.*

NEW YORK, October 19th, 1877.

To His Excellency, JAMES D. PORTER,
Governor of Tennessee:

Sir:—The undersigned owners and representatives of holders of bonds of the State of Tennessee beg to inform you that they are willing to accept new bonds of the State, having thirty years to run, bearing six per cent. interest, payable semi-annually
254 in the City of New York, coupons to be receivable for taxes and all other dues to the State, at the rate of sixty per cent. for the present bonds and past due coupons, in accordance with the terms of the award of the Committee of Arbitration on the debts of the Southern States.

The undersigned, therefore, respectfully requests your Excellency to convene the Legislature in extra session, and submit this proposition to it.

With much respect, we beg to remain
255 Your obedient servants,
EUGENE KELLY.

(Holds $297,000.)

Letter from G. W. Stanton, Jr., and E. D. Morgan & Co., New York.

NEW YORK, October 19, 1877.

256 To His Excellency, JAMES D. PORTER,
Governor of Tennessee:

Sir:—The undersigned owners and representatives of holders of bonds of the State of Tennessee beg to inform you that they are willing to accept new bonds of the State having thirty years to run, bearing 6 per cent. interest, payable semi-annually in the City of New York, coupons to be receivable

for taxes and all other dues to the State, at the rate 257
of 60 per cent. for the present bonds and past due coupons, in accordance with the terms of the award of the Committee of Arbitration, on the debts of the Southern States, provided the law is passed before the first of February next. The undersigned, therefore, respectfully requests your Excellency to convene the Legislature in extra session, and submit this proposition to it.

With much respect, we beg to remain

Your obedient servants. 258
G. W. Stanton, Jr.
E. D. Morgan & Co.

Letter from bondholders of Baltimore.

Baltimore, October 19, 1877.

To His Excellency, James D. Porter,
Governor of Tennessee:

Sir:—The undersigned owners and representatives of holders of bonds of the State of Tennessee, 259
beg to inform you that they are willing to accept new bonds of the State, having thirty years to run, bearing six per cent. interest, payable semi-annually in the City of New York, coupons to be receivable for taxes and all other dues to the State, at the rate of sixty per cent. for the present bonds and past due coupons, in acordance with the terms of the award of the Committee of Arbitration on the debts of the Southern States. 260

The undersigned, therefore, respectfully request your Excellency to convene the Legislature in extra session, and submit this proposition to it.

With much respect, we beg to remain

Your obedient servants,
($444,700.) William McKim,
President of the Peabody Institute, Baltimore.

261 JOHN BOLGIANO,
SAMUEL L. PETERS,
FRANCIS WHITE,
JOSEPH H. RIEMAN,
A. RIEMAN,
THOS. WILSON,
A. D. O'LEARY,
DANIEL H. SHRIVER,
BENJ. W. BENNETT,
By D. H. Shriver,
262 JOHN CUSHING,
EDW. K. SCHAEFFER,
FRANCIS A. CROOK,
Treasurer of the Baltimore Equitable Society.
FRANCIS A. CROOK.

Letter from E. D. Morgan & Co., New York.

NEW YORK, July 7, 1877.

263 To His Excellency, GOV. JAMES D. PORTER,
Nashville, Tenn.:

Dear Sir:—Your favor of the 29th ult., addressed to Messrs. Geddes & Smith and ourselves has been received, advising that you propose to convene the General Assembly after the new assessment has been completed, in November, for the purpose of adjusting your State debt.

264 You ask if a settlement upon the basis proposed by the Arbiters in March last will be acceptable to the bondholders, and desire us to confer with them and advise you. We will communicate with you later on, after learning the views of the foreign holders whom we represent, as, also, of some of the larger holders here.

We are told that it is represented in Tennessee that large amounts of your State bonds are held by parties who bought at late current prices. We believe that very few are so held. Our observation leads us to believe that nearly all the bonds which the necessities or fears of holders have forced to sale of late years have been absorbed by your railroads for settlement with the State. We find them generally held by original investors, who believe that your State will in the end pay them, principal and interest. 265

Very respectfully,
E. D. MORGAN & Co. 266

EXHIBIT No. 4.—J. D. P.

MESSAGE OF GOVERNOR JAS. D. PORTER TO THE FORTIETH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE.—SECOND EXTRA SESSION—DECEMBER 12, 1877. 267

EXECUTIVE OFFICE,
NASHVILLE, Tenn., December 12, 1877.

Gentlemen of the Senate and House of Representatives:

I have convened the General Assembly in extraordinary session for the purpose of adjusting the State debt. Before final action was taken upon the proposition submitted on the 5th of December, 1877, to the first extra session of the Fortieth General Assembly, a number of the creditors of the State, representing several millions of her debt, forwarded the following communication to this office: 268

NEW YORK, December 11, 1877.

TO GOV. JAS. D. PORTER:

I am a large holder of Tennessee bonds, which

269 have been held for years strictly for investment account. I was a signer of the former petition sent you through the Committee of Arbitration, and while I would prefer to have that proposition accepted, yet if it would require a revenue bill that is deemed by the Legislature to be higher than the State can afford to pay without seriously retarding the prosperity of the people, I prefer to change the original offer, and do hereby change it. I propose to take fifty cents on the dollar. I think this dis-
270 patch represents the sentiment of most of the investment holders. They recognize the embarrassed condition of the State, growing out of the war, and are willing to meet the situation in a spirit of liberality, and now ask the Legislature, through your Excellency, to reciprocate this feeling, and make a settlement without further delay. Please submit this to the Legislature for its action.

The Estate of Calvin Stevens,
271 C. Amory Stevens, *Trustee.*

New York, December 10, 1877.

To Gov. Jas. D. Porter:

We hold and represent Tennessee State bonds, which have been held for years as an investment, which we hereby offer to fund into New Tennessee
272 State bonds at fifty cents on the dollar of principal and accepted interest, and we respectfully request you to submit this proposition to the Legislature for its acceptance or rejection.

Inman Swann & Co.

LOUISVILLE, December 10, 1877. 273

To Gov. JAS. D. PORTER:

We are willing for the proposition of arbiters to be made fifty cents instead of sixty, rather than the adjustment should fail.

G. W. WHARTON & Co.

NEW YORK, December 10, 1877.

To Gov. JAS. D. PORTER:

274 Having heard that there is no probability of the sixty per cent. proposition being accepted, we would request you to recommend to the Legislature to pass a law funding the debt of the State at fifty per cent. of the principal and past due coupons, in bonds bearing six per cent. interest. We will accept this for the bonds we represent, and think we can induce a large majority of bondholders to do the same.

A. ISELIN & Co.

275

NEW YORK, December 10, 1877.

To his Excellency, JAS. D. PORTER,

Governor of Tennessee:

On behalf of clients I offer to accept for bonds and interest at fifty per cent. new six per cent. consols, with first coupon payable July, 1878, and if not January, 1879. I beg you to lay this before the Legislature.

JOHN B. MANNING.

NASHVILLE, December 10, 1877. 276

To his Excellency, JAS. D. PORTER:

Dear Sir—The following dispatch has just been received:

NEW YORK, December 10, 1877.

B. F. WILSON, Nashville, Tenn.:

My firm holds bonds for themselves and others, 277 and are willing to fund at fifty on principal and accrued interest into six per cent. bonds, and if you think it best to do so you may hand this proposition to the Governor, to be submitted to the Legislature by him. It will take time to see many of the bondholders, and especially those who hold as investors, but most all of this class, so far as I have seen them, prefer to have the matter settled at fifty rather than have no settlement made.

R. T. WILSON.

278

And in an unofficial way I have been informed that the great body of the creditors have indicated a willingness to accept the same terms.

The creditors of the State understand the temper of our people, both have become the victims of unscrupulous speculators, their influence and counsel has aroused suspicion in the mind of the citizen and
279 a feeling of distrust on the part of the creditor, and the good and great name of Tennessee is in danger of being sacrificed to the avarice and greed of these mere adventurers. The creditors now come forward and offer a concession to meet what they understand to be the views of the represntatives of the people. It is a liberal and generous one, and in my opinion should be accepted without hesitation or delay. We cannot ask for a further abatement, or longer postpone the settlement of a question demanded by
280 every consideration of justice and policy.

I transmit a statement from the Comptroller of the Treasury exhibiting the levy necessary to meet the obligations of the State if the proposition of the creditors is accepted. This statement does not include $70,500 income from the lease of the Penitentiary, not less than $56,000 from present valuation of railroads, together with the revenue to be derived from the tax on telegraph lines and sleeping cars. 281

If a compromise of the debt is made it will be the duty of the General Assembly to provide the revenue necessary to carry it out. It would also be necessary to provide by appropriate legislation for the expenses of the first and present extra sessions of the General Assembly.

I appeal to the General Assembly to rescue the State from its present peril, and to preserve something of its credit. The people of Tennessee are not prepared to learn the full lesson of repudiation; 282 they are still sensible of the responsibility resting upon them of maintaining the good name impressed upon the State by so many of their sons. The time has been when the prestige of Tennessee, the high standard of her commercial crdit, made all of her sons proud of their nativity. Do not let us turn our backs upon this honorable history.

JAS. D. PORTER.

283

COMPTROLLER'S OFFICE,
NASHVILLE, Tenn., Dec. 12, 1877.

To His Excellency,
JAMES D. PORTER, *Governor*, etc.:

Sir—In reply to your inquiry of this date in regard to estimate as to what tax it may be necessary to levy on the assessed taxable property of the State in order to pay 6 per cent. interest on the State debt adjusted at 50 cents, I have the honor to 284 convey herewith estimate which assumes that current expenses and interest on school fund were provided for at the regular session of this Legislature.

From this statement it will be seen that an additional levy of three mills, or 30 cents on $100, will be sufficient to provide for the interest on the State debt, provided the debt should be adjusted at fifty cents on the dollar:

285	Bonded debt, funded and registered, including accumulated interest to July 1, 1878		$23,212,666 00
	Adjusted at fifty cents		11,606,333 00
	Interest on $11,606,333 at 6 per cent.		696,379 98
286	Assessed taxable property in the State as per tax aggregate for 1877 (DeKalb County estimated)	$236,799,580 00	
	At 30 cents on $100 this tax aggregate will yield.	$710,398 74	
	Deduct 13 per cent. for cost of collection, delinquencies, etc	92,351 84	
	Net	$618,046 90	
287	Add amount derived from tax on merchants, which tax is governed by the tax on property, it being estimated that at 10 cents on $100 the tax on merchants will yield $32,000. Then at 30 cents on $100 it will yield	96,000 00	
288	Total estimated receipts from tax on property and tax on merchants at 30 cents on $100		$714,046 90

Respectfully submitted

James L. Gaines,

Comptroller.

EXHIBIT NO. 5—J. D. P. 289

(Private.) New York, Aug. 1, 1877.

Hon. James L. Gaines,
Comptroller,
Nashville.

Dear Sir :—I think that I may now safely say to you confidentially that the parties in interest will be prepared to pay off the debts of the Mississippi Central to your State just as soon as it is safe for them to do so. 290

I was amused when I read in the American newspaper the other day the very brief notice of the payment of the debt of the Memphis and Charleston road to the State which it published. A stranger would conclude that it was published solely to account for your being in New York, about which the public might be concerned, to assure the people of Tennessee that you were not here to pay off the State debt, or anything of that kind.

291 I have not yet heard from Mr. Smith, and am therefore not able to indicate what view he may take of the conditions upon which Governor Porter says he will call an extra session of the Legislature. I have, however, not changed my own views as to what should be done, but I am more firmly convinced than ever that the proposition of the bondholders should be accepted, or one its equivalent, which I think might be gotten up, offering to settle at say 75 per cent. of principal and interest in 6 per cent bonds, coupons receivable for all taxes and dues 292 to the State. If any hope were held out that a settlement can be effected at the equivalent of our proposition, say 75c., I would do my best to get all the principal bondholders to make a proposition to settle at that, and I think that with careful handling it could be carried. Of course there are always some who hold back, but I think that the great majority

293 would take 75 per cent. under the name of the equivalent of their proposition already made.

The debts of the railroads to the State may now be regarded as practically settled. What remains is simply a question between debtor and creditor.

Freed from the complications which grew out of these railroad debts the discussion of the debt question will be very clear and simple henceforward.

If a few of you men of influence and character would unite in an effort to bring about a compro-
294 mise on the basis of 75 per cent. I think it could be effected satisfactorily to all, while it is very doubtful if an acquiesced in settlement at a lower figure would ever be regarded as other than a forced one by the public and the bondholders.

The intervention of the so-called arbiters of the Clearing House was the most unfortunate thing that could have happened.

Personally I have worked hard to save the remnant of Tennessee's once good credit, and I make
295 this last effort to complete the job. If it fails, let it be so. Posterity will ever regret a blunder made now.

If you think so advisable you may convey to the Governor at your convenience the substance of what I have said, and let me know what he may have to say in reply.

Very truly yours,
P. GEDDES,
P. O. Box 936.

296

EXHIBIT NO. 6—J. D. P. 297

NEW YORK, Aug. 23, 1877.

JAMES L. GAINES, Esq.,
Comptroller.

Dear Sir:—I duly received your esteemed favor of the 8th current.

Since then I learnthat the Mississippi and Tennessee Railroad Company have voted to pay off their 298
debt to Tennessee. This practically settles up all advances made by the State to railroad companies, and reduces the whole State debt question to one between the people of Tennessee and the investors in their public debt. What the latter will agree to do I cannot say. They may or may not adhere to their proposition of last February.

If the people of Tennesseee under any circumstances are liable to do anything disgraceful in regard
to their public debt, or permit anything of that kind 299
to be done, of which you seem to entertain fears, should a settlement not be come to this year, and the debt question become one of the issues in the State canvas of next summer, the inquiry forces itself upon the bondholders, of how much value would the reduced debt of such a people be to the holders of it?

This is a very serious question in view of the fears you express, and of what I will now only character-
ize as the extraordinary legislation of last winter. 300
I shall be happy to hear from you in reply at your convenience.

Mr. Smith has been travelling since the beginning of July, and hence we do not hear from him.

I am,
Very truly yours,
P. GEDDES,
P. O. Box 936.

301 **EXHIBIT NO. 7—J. D. P.**

(Private.) NEW YORK, August 27, 1877.

HON. JAMES L. GAINES,
Nashville.

My Dear Sir :—I have just had an interview with Mr. Osborne, who reports that in thirty days the parties in whose interest the Mississippi Central was bought in the other day will receive a confirma-
302 tion of their purchase. It is quite well understood here that so soon as they can do so with safety, they will pay off the lien of Tennessee on the Miss. Central, and that they now think they can safely pay it off sixty days hence.

There is thus little doubt that the last of Tennessee's advances to the railroads within her borders will be paid off early in the fall, thus freeing her and her creditors too, for that matter, from a very troublesome disorder.

303 Although you do not in your note of the 8th current give much reason to hope that a settlement of Tennessee's debt on any other than the Coe Committee's plan is now practicable, I still cling to the belief that the honest citizens of Tennessee who must be still in the majority would much prefer to pay the State debt *in full*, if some plan were submitted which would make it clearly possible for them to do so.

304 The outstanding bonds of Tennessee are mainly held by investors, by trustees and Trust Institutions. The "margins" of speculators in and out of Wall street have long ago disappeared, and the bonds upon which they were held been sold.

Now, investors, and parties, and institutions holding in trust prefer much any reasonable reduction of the rate of interest their investments will produce to a reduction of the principal.

For the past four years they have been receiving 305
lower rates of interest and smaller dividends on
their investments than they have been accustomed
to. Many of them, judging by the large subscriptions
to government four per cents. recently, have
come apparently to the conclusion that lower rates
of interest than formerly prevailed will hereafter
permanently prevail. This is the mood in which
they now appear to me to be, and it has suggested
the idea that advantage might possibly be taken of
so favorable a time and circumstances by the 306
friends of Tennessee to bring about a compromise
of the rate of interest on her debt which wonld enable
her with ease to pay it all off.

I will not discuss her ability to pay her debt, but
will assume it and pass on to my suggestion, which
is as follows:

The State to issue new bonds for the principal
and past due interest of her existing bonds, to bear
interest at 4 (four) per cent. per annum, payable
semi-annually, January 1 and July 1, in each year, 307
coupons to be attached to the bonds representing
each payment of interest, to be receivable by the
State for all taxes and dues to the State, and to be
free from taxation of any kind in the State. The
bonds themselves to be payable fifty or one hundred
years hence, and redeemable by the State at any
time after six month's notice that the State is prepared
to pay them.

The bondholders of Tennessee may object to making
such a proposition of compromise; but if I get 308
from you and the Governor encouragement that if
such a proposition were made by the holders of more
than half the debt, it would be accepted, I will exert
myself with Mr. George Smith and other well
known large holders to make it.

Firmly convinced as I am that a settlement in
full, if by any possibility it can be accomplished,

309 will be of immense present and future advantage to Tennessee and Tennesseeans, I hope that you will induce Governor Porter and the other friends of State credit to give my suggestion careful consideration.

I do not dare to mention it to any one yet, but will set the wheels in motion if hope of acceptance is held out, and will, if necessary, go to Nashville for the purpose of an interview with the Governor and yourself.

310 If the friends of Tennessee in Tennessee will extend to her a helping hand, I think that she can still be restored and her honest pride saved.

Let me hear from you on receipt and write further afterward.

Truly yours,

P. GEDDES.

EXHIBIT NO. 8—J. D. P.

311

NEW YORK, Aug. 29, 1877.

HON. JAMES L. GAINES,
Nashville, Tenn.:

My Dear Sir:—I thank you for your favor of 25th current, and for the information and suggestion therein communicated.

Seeing by the morning papers that the Governors were to meet yesterday at the Continental Hotel, Philadelphia, I telegraphed to Governor Porter

312 there asking him where a letter would reach him today, and after hearing from him wrote him with a copy of my last letter to you, asking him to let me have the benefit of his views thereon in advance of his arrival here, and saying that if agreeable to him I would with pleasure call upon him when he comes to New York.

In case Tennessee wants to pay off her debt it

will be of great advantage to her to arrange for a 313
low rate of interest on it. Bonds bearing a low rate of interest can be with greater ease or at lower cost bought for a sinking fund than can bonds bearing full rates.

This is a point I had in view when we made our proposition of compromise, and one which I hope will have some weight yet with you.

Yours truly,

P. GEDDES.

314

EXHIBIT NO. 9—J. D. P.

NEW YORK, Feb. 23d, 1877.

His Excellency,
JAMES D. PORTER,
Governor of Tennessee:

SIR: We beg leave to call your attention to the 315
enclosed telegram to the *New York Herald*, from its Nashville correspondent, cut from this morning's issue of the *Herald*, and to confirm our dispatch to you of this morning by telegraph in relation thereto, as follows:

> "Proposition from large and influential New "York and Baltimore bondholders expressed to you "on Wednesday, and should be received to-day. "Bondholders here know nothing whatever of a 316
> "meeting or of resolutions reported in *Herald* to-"day as having been sent to you, and by you trans-"mitted to legislature, with a special message.
>
> "This may be a movement designed to destroy or "embarrass any proper adjustment."

No meeting of bondholders of Tennessee, so far as we are aware or can ascertain, has either been called

317 or held in this city. Neither have we heard at any time of a purpose to call or hold such a meeting, nor of a purpose or desire on the part of real holders of Tennessee bonds to take any action whatever, outside of what has been taken through and in the communication which we, with others had the honor to address to you under date the 15th current. It could hardly be possible to call or hold a meeting here of Tennessee bondholders without our knowing or hearing about it. Such being the case, we thought it
318 our duty to telegraph to your Excellency as we did this forenoon. It occurred to us that possibly an attempt to mislead your Excellency and the people of Tennessee as to the sentiments and wishes of the real holders of the indebtedness of the State had been made, akin to the attempt made last year to create a false impression, through a letter to the State Treasurer, to which the name of one of the Astors had been forged.

The debtors of the State, with all of which she has
319 been extremely liberal, even to the injury of her own credit many here believe, are supposed to be antagonistic to the consummation of any plan for the restoration of Tennessee credit now, the complete prostration of which, it is supposed, would be for their immediate pecuniary advantage. This view, if entertained by any of the debtors of the State, is unsound. For, with every decline in the credit of the State, their credit inevitably suffers.

But, to remove this cause of a real or apparent
320 antagonism between the debtors and creditors of the State, and also to remove—which is of immediate and great importance—an obstacle which is calculated to prevent or, at least, hinder the people of Tennessee and their public creditors from coming to an agreement with respect to what each should do to restore the credit of the State, and place it on a solid basis, we would respectfully suggest to your

Excellency that the debtors of the State be required, 321
within a reasonable time, say by or before July 1st, 1877, to pay off every obligation due from them to the State as now they may do, after which time only such advances as were specifically made to each to be receivable in payment or cash; this is to apply to principal and interest.

We submit to your Excellency whether there would be any hardship or injustice in requiring this, and assure you that the creditors of the State would regard such a step as one taken in the right direc- 322
tion; and

We remain
Your Excellency's Ob't Serv'ts,
GEDDES & SMITH.
E. D. MORGAN & CO.

The views above given, we beg to add, are for your own personal consideration.

G. & S.

323

I, William H. DeLancey, Special Examiner, do hereby certify that an original letter, of which the foregoing is a true and exact copy, was produced before me on the examination of Peter Geddes, a witness produced on the part of the complainants, and was submitted to him and acknowledged by him, as appears in his deposition, to which this is 324
annexed as an exhibit. I further certify that the foregoing copy is a copy of the whole of such original letter.

New York, October 13th, A. D. 1879.

William H. DeLancey,
Special Examiner.

325 **EXHIBIT No. 10.—J. D. P.**

THE WESTERN UNION TELEGRAPH COMPANY
(51c). *New York, Dec.* 15, 1877.

Received at 2:49 P. M.

To GOV'R JAMES D. PORTER:

The undersigned do not believe that any compromise measure at less than fifty per cent., bearing six per cent. interest, would be accepted by the
326 bondholders, and that the practical effect of a measure at a less compromise rate, of either principal or interest, would be to leave a great majority of the bonds outstanding, and practically no settlement of the State debt.

A. ISELIN & CO.,
F. H. COSSITT,
by J. G. HOLBROOK, Att'y,
CHAS. M. FRY,
THE GLOBE LIFE INSURANCE CO.,
327 ESTATE OF CALVIN STEVENS,
C. AMORY STEVENS,
88 paid *Trustee.*

EXHIBIT No. 11.—J. D. P.

NEW YORK, Dec. 15, '77.

GOV. JAS. D. PORTER, Nashville, Tenn.

Dear Sir:—I telegraphed you Dec. 11th, and
328 again to-day. I feel it my duty to further say: That while I fully recognize and sympathise with the financial distress of Tenn., yet I cannot entirely disregard my own embarrassment and that of my fellow bondholders.

I represent one of the many estates which purchased Tenn. bonds at a time when her credit stood high, and none feared that she would do aught to

lower it. We now offer liberally to share half of 329
the loss. Speaking for one (and I believe that I express the sentiment of the majority) I cannot discount my just claim at better than 50 and 6 per cent. (fifty per cent. of old bonds and interest due changeable for new bonds bearing six per cent. interest), nor can I yet believe that the Legislature of Tenn. will force her creditors (who have offered so liberally) to take less.

Allow me to call your attention to a fact of which
you may not be aware. John T. McKinnon speaks 330
for (if he has not already overstepped his instructions) a self-appointed syndicate. It is well-known that the syndicate own few, if any, of the bonds. They do not represent the bondholders. In fact the bondholders denounce their interference and mercenary motives. This self-constituted syndicate does not seek only to improve and promote the best interests of the South.' Its sympathy would seem to be quite as much with itself. With a subscribed
capital of only ten thousand dollars, it aims to in- 331
crease it by levying a regular broker's commission on the already over-burdened stockholders.

As a sovereign State your unfortunate creditors appeal to you to act as becomes your dignified position—to deal directly with bondholders, to treat as discreditable impertinence, this interference of a self-appointed syndicate, that speaks without the authority of your creditors, and whose misrepresentations and mercenary motives they generally de-
nounce. 332

Very respectfully,
THE ESTATE OF CALVIN STEVENS,
C. Amory Stevens, *Trustee*

Care of
H. T. Morgan & Co.,
35 William St., New York.

333

EXHIBIT NO. 12.—J. D. P.

NOTICE TO TENNESSEE BONDHOLDERS.

Bank of Commerce Building, Room 8.

NEW YORK, Jan. 19th, 1878.

At a meeting of the Committee of Tennessee bondholders—Present: Eugene Kelly (Chairman), Peter 334 Geddes, J. G. K. Duer, J. T. Terry and Dr. R. S. Moran, it was

Resolved—that a written copy of the resolution passed at the meeting of Tennessee Bondholders, held January 16th, 1878, be sent to Governor Porter, and that copies of the same be also printed for general distribution. It was also,

335 *Resolved*—That all holders of Tennessee bonds are requested to communicate with Mr. Peter Geddes, Bank of Commerce Building, Room 8, New York, one of said Committee.

C. AMORY STEVENS,
Secretary.

P. S.—It is necessary that all Tennessee bond holders send in their names for record as soon as possible.

336

CALL OF MEETING OF TENNESSEE BONDHOLDERS.

NOTICE.

The holders of the State of Tennessee Bonds are earnestly requested to meet at the office of John B.

Manning, No. 14 Wall Street, on Wednesday, January 16th, at 12 o'clock. 337

E. D. MORGAN & CO.,
BROWN BROTHERS & CO.,
EUGENE KELLY,
GEDDES & SMITH,
JAMES G. KING'S SONS,
A. H. POMEROY,
GEORGE W. STANTON,
C. AMORY STEVENS.

338

At a meeting of Bondholders of the State of Tennessee, held pursuant to the above call, the following preamble and resolutions were adopted :—

Whereas, on the 8th March, 1877, at a meeting between a committe of five members of the Tennessee Legislature (of which Col. John H. Savage was Chairman), and a Committee of Arbitration (of which Mr. George S. Coe was Chairman), to whom had been referred the question of a fair and equitable adjustment between the Southern States in default and their bondholders, the debt of the State of Tennessee was fully discussed, with the view of ascertaining and determining what a fair and equitable adjustment of it would be ; and 339

Whereas, at the conclusion of the conference between the Committee of the Tennessee Legislature and the Committee of Arbiters, the Committee of Arbiters made an award that the debt of the State of Tennessee ought to be re-adjusted by the issue of new bonds, at the rate of sixty per cent. of the total amount of the debt and interest : the new bonds to bear interest at six per cent., payable semi-annually and the coupons for interest to be made receivable for all taxes and dues to the State ; and 340

341 *Whereas*, The Session of the Legislature expired by constitutional limitation a few days after the award of the Arbiters was rendered, and there was no time to enact a law to give it effect; and

Whereas, it was very generally understood that an extra session of the Legislature would be convened to accept a proposition from the bondholders to compromise the State debt, on the terms of the award of the Committee of Arbitration and to enact a law to
342 fully carry it out, the holders of a large amount of bonds of Tennessee did make and send to the Governor propositions of compromise on the terms of said award, and the Governor did thereafter convene the Legislature in extra session to consider said proposition; and

Whereas, during the sitting of the legislature, the intervention of other parties, proposing and advocating before it other and different terms of settlement
343 than those considered by the Committee of the Legislature and the Committee of Arbitration, and awarded by the latter Committee, and agreed to by the bondholders, was prejudicial to the interests of the State of Tennessee, and to her creditors, in so far as it has delayed a settlement; and

Whereas, the bondholders of Tennessee had neither an agent or any other person to represent them before the Legislature, and fully expected that
344 the Senators and Representatives of the people of Tennessee would ratify and confirm the award of the distinguished and disinterested gentlemen who had acted as a Committee of Arbitration, and accept the proposition of the bondholders made in accordance therewith, unhesitatingly; therefore,

Resolved,—That efforts made by any person who

purported to represent the bondholders of Tennessee 345
were entirely unauthorized, and that the declaration alleged to have been made at Nashville that a settlement could be effected with the bondholders upon a lower basis than that proposed by the Committee of Arbiters, of which Mr. Geo. S. Coe is Chairman, has no foundation in fact, so far as it relates to the great body of bondholders.

Resolved—That while we deplore the attitude assumed by the Legislature, while assembled at Nashville in December, toward the bondholders, we believe that it resulted from the influence and unwarrantable interference of other parties than real bondholders, or their representatives. 346

Resolved—That we have an abiding belief that the people of the great State of Tennesssee will not, by the rejection of honest claims which they are abundantly able to pay, suffer a stigma long to rest upon them; the effect of which will be to paralyze the prosperity of the State; subvert its best interests; and engender that demoralization which must ultimately result in losses to its citizens, even far greater than to its creditors. 347

Resolved—That the people of Tennessee be urged to adopt such Legislation as will uphold the honor of the State, and evince proper regard for the high integrity which has has hitherto characterized her citizens.

348 *Resolved*—That a Committee of five be appointed, consisting of Eugene Kelly, John T. Terry (of E. D. Morgan & Co.), J. G. K. Duer (of James G. King's Sons), Peter Geddes (of Geddes & Smith), and Dr. R. S. Moran—Eugene Kelly to be Chairman—to take such action as, in their judgment, may be for the interest of the bondholders, but with the under-

149 standing that no settlement less favorable than the award of the Committee of Arbitration be accepted.

(The envelope in which the above was received, and therewith exhibited is addressed,

"Gov. James D. Porter,
Nashville,
Tennessee.
"C. Amory Stevens."

150 in the handwriting of the said C. A. Stevens, and bears the postmark "New York, Feb. 1, 12 P. M.")

EXHIBIT 13.—J. D. P.

New York, *January* 25, 1878.
32 West Thirty-second street.

151 Dear Sir,—Your favor of the 19th inst. did not reach me immediately, otherwise it would have received an earlier acknowledgement.

In my communication of yesterday, I aimed to state the facts as I understand them. Should you think it proper to publish it, you are, of course, at liberty to do so. If you have any suggestion to offer that will enable me to better state the truth, and prove the sincerity of our motives, I shall be pleased to receive them, and will give them prompt and due
152 consideration.

I am not surprised that you regarded our recent meeting as you have. Indeed, but for the timely remarks of Messrs. Moran, Inman, Swann and myself at that meeting, its action would have seemed less guarded and judicious than it was. Messrs. Terry and Pomeroy may not have intended wrong, but, in my opinion, they misapprehended the situation in Tennessee when they stated, as they did at our meeting on the 16th, that if the [50 and 6 per cent. proposition had not been offered to that Legislature, the 60 and 6 per cent. would have been adopted by it. 353

I enclose herewith accounts of the meeting as reported by the *Times*, *World*, *Tribune* and *Herald.* The Baltimore *Sun* of the 17th inst., whose reporter was present, reported in some respects more fully what was said at that meeting. The remarks of Dr. R. S. Moran and Eugene Kelly, as given in that paper, are worthy of your notice. I think it but just to Mr. Manning to state that Dr. R. S. Moran represented him, and expressed his sentiments at the meeting. 354

I also enclose a written copy of the resolutions, in accordance with a resolution passed at the meeting of the Committee of Tennessee Bondholders, held January 19, 1878.

Truly yours,

C. AMORY STEVENS. 355

GOV. JAMES D. PORTER,
Nashville, Tenn.

[NOTE.—Envelope addressed in same hand as letter.

GOV'R JAS. D. PORTER,
Nashville, Tenn.]

Postmark: New York, Jan. 25, 5:30 P. M.

Copy of resolutions passed at a meeting of Tennessee bondholders, held at the City of New York on January 16, 1878. 356

Whereas, On the 8th March, 1877, at a meeting between a committee of five members of the Tennessee Legislature (of which Col. John H. Savage was Chairman), and a Committee of Arbitration (of which Mr. George S. Coe was Chairman), to whom

357 had been referred the question of a fair and equitable adjustment between the Southern States in default and their bondholders, the debt of the State of Tennessee was fully discussed, with the view of ascertaining and determining what a fair and equitable adjustment of it would be; and

Whereas, At the conclusion of the conference between the Committee of the Tennessee Legislature and the Committee of Arbiters, the Committee of Arbiters made an award that the debt of the State
358 of Tennessee ought to be readjusted by the issue of new bonds, at the rate of sixty per cent. of the total amount of the debt and interest; the new bonds to bear interest at six per cent., payable semi-annually, and the coupons for interest to be made receivable for all taxes and dues to the State; and

Whereas, The session of the Legislature expired by constitutional limitation a few days after the award of the arbiters was rendered, and there was no time to enact a law to give it effect; and

359 Whereas, It was very generally understood that an extra session of the Legislature would be convened to accept a proposition from the bondholders to compromise the State debt on the terms of the award of the Committee of Arbitration, and to enact a law to fully carry it out, the holders of a very large amount of the bonds of Tennessee did make and send to the Governor propositions of compromise on the terms of said award, and the Governor did thereafter convene the Legislature in extra ses-
360 sion to consider said proposition; and

Whereas, During the sitting of the Legislature, the intervention of other parties proposing and advocating before it other and different terms of settlement than those considered by the Committee of the Legislature and the Committee of Arbitration, and awarded by the latter committee, and agreed to by the bondholders, was prejudicial to the interests of the State of Tennessee, and to her creditors, in so far as it has delayed a settlement; and

Whereas, The bondholders of Tennessee had neither an agent nor any other person to represent them before the Legislature, but confided in the Legislature and fully expected that the senators and representatives of the people of Tennessee would ratify and confirm the award of the distinguished and disinterested gentlemen who had acted as a committee of arbitration, and accept the proposition of the bondholders made in accordance therewith, unhesitatingly; therefore

Resolved, That efforts made by any persons who purported to represent the bondholders of Tennessee were entirely unauthorized, and that the declaration alleged to have been made at Nashville that a settlement could be effected with the bondholders upon a lower basis than that proposed by the committee of Arbiters, of which Mr. George S. Coe is chairman, has no foundation in fact, so far as it relates to the great body of bondholders.

Resolved, That while we deplore the attitude assumed by the Legislature, while assembled at Nashville, in December, towards the bondholders, we believe that it resulted from the influence and unwarrantable interference of other parties than real bondholders or their representatives.

Resolved, That we have an abiding belief that the people of the great State of Tennessee will not, by the rejection of honest claims which they are abundantly able to pay, suffer a stigma long to rest upon them, the effect of which will be to paralyze the prosperity of the State, subvert its best interests and engender that demoralization which must ultimately result in losses to its citizens, even far greater than to its creditors.

Resolved, That the people of Tennessee be urged to adopt such legislation as will uphold the honor

365 of the State, and evince proper regard for the high integrity which has hitherto characterized the citizens.

Exhibit No. 13—J. N. P.

Extract from the *N. Y. World*, Jan'y 23d, 1878.)

BANK OF COMMERCE BUILDING,
Room 8,
NEW YORK, January 19, 1878.

366 At a meeting of the Committee of Tennessee Bondholders.

Present—Eugene Kelly (Chairman, Dr. R. S. Moran, J. F. Terry, Peter Geddes, and J. G. K. Duer,—it was

Resolved, That a written copy of the resolutions passed at the meeting of Tennessee Bondholders, held Jan'y 16, 1878, be sent to Governor Porter, and that   copies of the same be printed for general distribution, It was also

367 Resolved, That all holders of Tennessee bonds be requested to communicate with Mr. Peter Geddes, 31 Nassau street, room No. 8, New York, one of said committee. It is the desire of the committee to promote co-operation among the creditors. Prompt replies from bondholders will facilitate the action of this committee.

C. AMORY STEVENS,
Secretary.

368 Exhibit No. 13—J. N. P.

("*N. Y. World*, Jan. 17, '78.)

TENNESSEE'S DEBT.

WHAT THE BONDHOLDERS SAY ABOUT THE LEGISLATURE'S ACTION.

A meeting of holders of bonds of the State of

Tennessee, was held yesterday afternoon, at the office of John B. Manning, No. 14 Wall street. The call was signed by E. D. Morgan & Co., Brown Brothers & Co., Eugene Kelly, Geddes & Smith, James G. King's Sons, A. H. Pomeroy, George W. Stanton and C. Amory Stevens. 369

About thirty-five gentleman were present, representing from $8,000,000 to $10,000,000 of the bonds. The total issue of the State Bonds, with accrued interest, aggregates, in round figures, $23,000,000.

Mr. Eugene Kelly was made chairman. He at once called upon Mr. A. H. Pomeroy to present the resolutions, and, without opposition, the following were adopted, with a preamble which, in substance, recites the action taken by the Legislature of Tennessee, and also that of persons endeavoring to effect a settlement on a different basis than that desired by the bondholders : 380

Resolved, That the efforts of any person who purported to represent the bondholders of Tennessee were entirely unauthorized, and the declaration, alleged to have been made at Nashville, that a settlement could be effected with the bondholders upon a lower basis than that proposed by the Committee of Arbiters, has no foundation in fact, so far as it relates to the great body of bondholders. 371

Resolved, That while we deplore the attitude assumed by the Legislature, during the Special Session, towards the bondholders, we believe it resulted from the influence and unwarrantable interference of other parties than real bondholders or their representatives. 372

Resolved, That we have an abiding belief that the great State of Tennessee will not, by the rejection of honest claims which it is abundantly able to pay, suffer a stigma long to rest upon it, the effect of which will be to paralyze the prosperity of the State, subvert its best interests and engender that demor-

373 alization which must ultimately result in loss to its citizens even far greater than to its creditors.

Resolved, That the people of Tennessee be urged to adopt such legislation as will uphold the honor of the State and evince proper regard for the high integrity which has hitherto characterized its citizens.

The first resolution was directed in part towards the Bond Funding Association, an account of the labors of which was given in *The World* of yes-
374 terday. It was also, it is thought, intended to hit some of those present who had, after the 60 per cent. bill failed to pass the Special Session of the Tennessee Legislature, informed the Governor, or some of the legislators, that they would take 50 per cent.

As the 60 per cent. award has fallen through, the question arose as to what should be done next. Mr. C. A. Stevens, as Trustee of the estate of Calvin Stevens, read his correspondence with the Governor
375 of Tennessee, and others read dispatches showing what they had done. Mr. Albert Crane offered a resolution to the effect that since negotiations had been broken off bondholders should resolve to take nothing less than 100 cents on the dollar. He thought the bondholders ought to stand on their dignity. The State was able to pay, and eventually would be obliged to. Mr. Pomeroy followed, saying he wished the matter of a compromise had never been broached, and cited the case of Illinois,
376 whose bonds were at one time worth only five or six per cent., but she now enjoys as good credit as any State. He thought it would have been the same with Tennessee if she had been let alone. Mr. Kelly replied that he did not think the cases were parallel, so far as present action was concerned. The majority of bondholders had expressed their willingness to take less than par for their bonds,

and he thought they ought not to demand more 377
than they had offered to compromise for. Mr. Peter Geddes, who represented Scotch bondholders, and who has recently visited the State to study the subject, was also opposed to any such expression, as likely to invalidate any progress that had been made. The Rev. Dr. Robert Moran, who has also studied the subject in the State, agreed with the preceding speaker, and said that with a new legislature he felt sure the proposed compromise could
be effected. This counsel prevailed. and the matter 378
was settled by the adoption of a resolution offered by Mr. J. T. Terry, of E. D. Morgan & Co,, which provided for the appointment of a committee of five, of which the chairman of the meeting should be chairman; this committee to take such action as its judgment may dictate. Messrs. Eugene Kelly, Peter Geddes, John T. Terry, Rev. Robert D. Moran, of North Carolina, and Mr. Duer, of James G. King's Sons, were appointed such a committee."

379
(Clippings from the *New York Herald* of the 17th January, 1878, the *New York Tribune* of the same date, and the *New York Times* of the same date, all of similar import to the above, are also attached to the deposition of Jas. D. Porter, now on file in the United States Court at Memphis, Tenn.)

EXHIBIT No. 14.—J. D. P. 380

JANUARY 31st, 1878.

C. AMORY STEVENS, Esq., New York:

Dear Sir:—I have received your communications of the 24th and 25th inst., with copy of resolutions adopted at the late meeting of the creditors of Tennessee.

381 I have no comment to make upon the action of the creditors, except to reiterate my communication of the 19th inst., addressed to Mr. Manning, a copy of which was furnished to yourself.

I have the honor to be,
Very respectfully,
JAS. D. PORTER.

EXHIBIT No. 15.—J. D. P.

382 JANUARY 19th, 1878.

Mr. JNO. B. MANNING, New York:

Sir—I have read the proceedings of the meeting of the creditors of the State of Tennessee, held at your offices on the 16th inst., when it was resolved that no settlement of the debt would be accepted on a lower basis than sixty cents.

In a special message to the Legislature of Tennessee, delivered on the 12th of December last, I
383 recommended the compromise of the public debt upon a basis of fifty per cent. This was done upon the authority of a number of the large creditors of the State communicated to me by telegraph. Among others, a telegram was received from Mr. C. Amory Stevens, the Trustee of the estate of one of the largest creditors, in which he proposed "to take fifty cents on the dollar," and urged me to submit the proposition to the Legislature, and gave expression to the opinion that his dispatch "repre-
384 sent the sentiment of most of the investment holders," and from yourself I received the following telegram:

"NEW YORK, December 10th, 1877.

"To His Excellency, JAS. D. PORTER,
"Governor of Tennessee:

"On behalf of clients, I offer to accept for bonds and

"interest at fifty per cent. new six per cent. consols 385
"with first coupon payable July, 1878, and if not
"then, January, 1879, I beg you to lay this before
"the Legislature.

"JOHN B. MANNING."

This with others of similar import was submitted
to the Legislature in good faith and in the honest
belief, founded upon assurance made by the creditors
whose correspondence was communicated to the
Legislature that if this offer was adopted by the 386
State that it would be generally acceptable to the
creditors. At the meeting referred to, no allusion
was made to your agency in the business, and your
own silence—coupled with the action of the creditors
at the meeting before mentioned, is a reflection
upon my own character and conduct, and puts me
in the attitude of trifling with a great question, by
recommending a compromise without the assent of
the creditors, after assuming that they had a right
to a hearing. 387

If this compromise had been adopted by the Legislature
the taxpayers of the State would, in my
opinion, have ratified it and accepted it as a final
adjustment of the question. As it is, public opinion,
as represented by those who favored it, has
settled upon it as the basis of a future settlement.
For this, yourself and those who acted with you are
responsible, and you cannot complain if there is no
reaction in public sentiment responsive to the resolutions
adopted at the late meeting of the creditors. 388
If this meeting had been held in December last its
moral influence would have been of incalculable
benefit in the assurance that it would have carried
to the minds of members of the Legislature that
they were dealing directly with the creditors of the
State. Then they would not have been confronted
at every legislative step and misled by a lot of spec-

389 ulators and adventurers whose aspiration was a bear movement, out of which it is believed they made many thousands of dollars.

I will send a copy of this communication to Mr. Stevens.

I have the honor to be,
Very respectfully,
Jas. D. Porter.

390

EXHIBIT 16.—J. D. P.

New York, January 24, 1878.

We, the undersigned, who sent the dispatches alluded to in the foregoing letter of Mr. Stevens, heartily concur in the sentiments expressed by him.

Inman, Swann & Co.
Jno. B. Manning.

391

EXHIBIT 17.—J. D. P.

Office of John B. Manning.

Member of the New York Stock and Gold Exchange. } 14 Wall St., New York,
Nov. 1, 1877.

His Excellency, Jas. D. Porter,
Governor of Tennessee, Nashville, Tenn.:

Sir,—I have taken the liberty of telegraphing you
392 to-night as follows: "Am authorized on behalf of large number of Tennessee bondholders to submit proposition of compromise by accepting sixty cents on dollar for bonds and past due coupons, payable in new six per cent. consols, and ask you to convene Legislature to carry out compromise," which I now beg to confirm.

From a letter received from your City I inferred that a proposition from the bondholders would be 393 acceptable, and that the Legislature would be called together to consider it. There are a great many holders of bonds who feel that Tennessee has the ability to pay her debt in full. Still, they are willing to accept a compromise rather than let the matter remain unsettled longer.

Trusting the above will be favorably received, I have the honor to be,

Yours respectfully,

JNO. B. MANNING. 394

EXHIBIT 18.

Office of JOHN B. MANNING,

Member of the New York Stock & Gold Exchange.

14 WALL ST, NEW YORK,

Nov. 8th, 1877.

His Excellency, JAMES D. PORTER, 395

Governor of Tennessee, Nashville, Tenn.:

SIR:—I beg to acknowledge your favor of 3d inst. At the time I telegraphed you I was unable to say how many thousand bonds of Tennessee I represented. I suppose I have consulted with some $2,000,000 worth, and they seem satisfied to accept a compromise of 60%, while they would at the same time feel grateful for a better settlement. People 396 have a delicacy in stating the amount of Tennessee bonds they hold, fearing it might injure their credit, but this fear, I hope and trust, will be done away with, now that Tennessee is coming forward to settle her debts to the best of her ability. I understand *you* are in favor of paying dollar for dollar, and I wish all your citizens were of the same mind.

By this registered letter I send you the following

397 Tennessee coupons which were left in my hands by my clients for collection, and which I was unable to get in when the State was paying. I therefore pray that you forward me a check for same, viz.:

1 @ 25, 1,584, July, 1875..................	$ 25 00
11 @ 30, July, 1875, 5,933, 4,428, N. S., 2,892, N. 8,763, 10,050, 6,989, 10,123, 8,761, 554, 2,985, 567..................	330 00
398	$355 00

Very resp'y yours,
Jno. B. Manning,
per M. C.

EXHIBIT NO. 19.—J. D. P.

"State of Tennessee.

399 We, James D. Porter, Governor, and Charles N. Gibbs, Secretary of State of the State of Tennessee, do hereby certify—pursuant to section 6 of an act entitled 'An Act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee,' passed February 25, 1869, that Adolphe Schreiber, James Fentress and Lewis V. F. Randolph (trustees under a certain mortgage made the eighth day of November, 1877, between the Chicago, St. Louis and New Orleans Railroad Company, of 400 the first part; the New Orleans, Jackson and Northern Railroad Company, of the second part; the Central Mississippi Railroad Company, of the third part, and the said Trustees of the fourth part), as Trustees for the purchasers and holders of the bonds to be issued under said mortgage, numbered from number one to number one thousand one hundred and ninety-nine, inclusive, have paid in and deliv-

ered up bonds and coupons of the State of Tennessee 401
as authorized by the act aforesaid equal in
amount to the indebtedness heretofore created by
the Mississippi Central and Tennessee Railroad Company,
and the Mississippi Central Railroad Company,
and which is a first lien on the railroad and
property heretofore known as the Mississippi Central
Railroad, lying in the State of Tennessee, and
has become a debt of, and a first lien upon the property
of the Chicago, St. Louis and New Orleans
Railroad Company, its successor, in the State of 402
Tennessee; that such payment was made by and
with the written consent of the Board of Directors
of the Central Mississippi Railroad Company, and
of the Chicago, St. Louis and New Orleans Railroad
Company, as allowed by the Statutes of Tennessee,
and that the said Trustees, for and in behalf of the
holders of said bonds to be issued under said mortgage
to provide and be substituted for the debt of
the State of Tennessee so paid, are substituted and
entitled to all the liens against said property for the 403
payment of said debt that the State of Tennessee
had or has by law.

And we do hereby, as provided and authorized
in the Act of February 25, 1869, and acts
amendatory thereof, in the name of the State of
Tennessee and in her behalf and for the considerations
above named, assign and transfer to the
said Adolphe Schreiber, James Fentress and Lewis
V. F. Randolph, trustees as aforesaid, all the debt
and lien of the State of Tennessee on the railroad 404
and property heretofore owned in said State by the
Mississippi Central and Tennessee Railroad Company,
and on all the railroad property in said State
heretofore known as the Mississippi Central Railroad,
now known as the Chicago, St. Louis and New
Orleans Railroad, which said State has or had on
the same by reason of the internal improvement

405 laws of said State, and the fact that said State had granted aid to said railroads under the statutes thereof, with all the rights, privileges and powers which said State has or had for enforcing said lien; the object being to substitute the said trustees for the State, and to place them in the same position and with the same rights which the State of Tennessee had previous to and before the said payment and delivery of State bonds, with full power to enforce the same in any and every manner in which
406 the said State may or might.

This the 28th of November, A. D. 1877.

In witness whereof, I, James D. Porter, Governor of the State of Tennessee, have hereto set my hand and caused the great seal of the State of Tennessee to be hereunto affixed, this 28th of November, 1877.

(Sd.) JAS. D. PORTER,
Governor.
407

In witness whereof, I, Chas. N. Gibbs, Secretary of State, have hereto set my hand and the great seal of the State of Tennessee, this November 28, 1877.

(Sd.) CHAS. N. GIBBS,
Sec. State.

408

EXHIBIT No. 20.—J. D. P. 409

NEW YORK, Jan. 24, 1878.
32 West 32d st.

To His Excellency GOV. JAS. D. PORTER,
Nashville, Tenn.:

Sir—I thank you for your outspoken views, as expressed in your favor of the 19th inst. It enables me to correct a misapprehension which you manifestly entertain, and to place my associate and self 410 correctly before you and the public.

In behalf of myself and others who entertained similar views, I offered and urged the 50 and 6% settlement; not that I thought it just to ourselves, or honorable to the State of Tennessee. Indeed, I believed then, as I do now, that anything less than 60 and 6%, the arbitration award, would be neither just nor honorable.

I judged, however, from the reported proceedings of the Legislature that the passage of the sixty and 411 six bill was then highly improbable. At the same time I had what I then deemed good reasons to believe that if the creditors would only modify their proposition by substituting 50 for 60 in the bill, the Legislature would very gladly accept it.

It was under this impression that a few of us, consulting together, thought it expedient under the circumstances, to advise your Excellency that such a modification would, in our opinion, be accepted by the creditors. This modification was proposed, 412 however, without any authority from the great majority of the bondholders, but it was thought by those of us who made it, that an adjustment, even on the basis of 50 and 6% would be accepted by most of the investment holders, rather than that the Legislature should adjourn without final settlement of the debt. I believe even now, if the Legisla-

413 ture had promptly accepted our proposition, the majority of the bondholders would have concurred in it. But, while your Excellency fully appreciated our honest efforts, the Legislature did not respond to them in the spirit in which they were made. A certain few wisely and eloquently endeavored to uphold the honor of the State by doing justice to her creditors. The majority, however, seemed to regard our increased liberality very much in the light of gratitude as de-
414 fined by a French philosopher—"a lively appreciation of favors to come." They pressed for even further concessions. They treated "the pesky bondholder" as a public enemy, an outside barbarian, whose rights were unworthy of recognition. They forgot, however, the solemn promises which the State had made when she sought the capital of her creditors to carry on those internal improvements which have enhanced the value of property in Tennessee far beyond the amount borrowed.

415 Under such circumstances it would certainly seem quite natural and right that the great majority of bondholders who never offered settlement at less than 60 and 6% should adhere to the Arbitration Award, even more firmly than before, while those of us who did offer even further concessions to that Legislature, remembering the spirit in which it was received, are determined never again to renew it. There is now prevailing one unanimous sentiment among the bondholders—60 and 6% or repudiation
416 is the question for Tennessee to decide.

As your Excellency has very properly suggested, an earlier public expression on the part of the bondholders themselves would have been of incalculable benefit. But we were deceived. The same "Funding Association" that befogged the Tennessee Legislature also befogged us. As soon as we discovered how misrepresented we had been we gave public ex-

pression to our views. And that the public may 417
more fully know who are the *bona fide* creditors seeking their honest dues, and who are of the Syndicate Ring seeking only to prey on the misfortunes of both creditor and debtor, it is proposed, at an early day, to even more clearly expose the inner workings of the "Funding Association, Limited." By its acts it has proved itself one of the most mercenary and unprincipled conspiracies that has ever disgraced the annals of a people.

I presume that your Excellency's allusion to "a 418
bear movement, out of which many thousands were made," applies to the Syndicate Ring. If intended as applicable to others, allow me to assure you that it is a mistake. I am well aware that a stranger, whose name we have been unable to ascertain, asserted, at our meeting of the 16th inst., that he so regarded the dispatches, on the strength of which you reconvened the Legislature. There may have been seeming cause for suspicion on the part of
those who bought the bonds at 47 and sold them at 419
34; but it was an unfounded suspicion. A more false statement could not have been uttered, if it was intended for my associates and self, whose dispatches you submitted to the Legislature.

Allow me to add, that whatever difference of opinion may exist in other respects, I think that I may safely say that there is one point on which there is unanimity of opinion. The creditors of Tennessee fully appreciate the earnest and sincere
efforts of your Excellency in support of their rights, 420
while Tennessee herself must ever gratefully remember you as the devoted champion of her honor and integrity.

With assurances of respect and esteem, I remain,

Very respectfully,

C. Amory Stevens.

Deposition of Jas. D. Porter. 1

UNITED STATES CIRCUIT COURT,

DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on
Behalf of the Holders of Internal
Improvement Bonds of Tennessee,
Issued to the
RAILROAD COMPANY 2

versus

THE
RAILROAD COMPANY *et al.*

Deposition of JAS. D. PORTER, witness for defendants, taken in Paris, Tennessee, March 9th, 1880, 3
before L. W. HUMES, Special Examiner, duly appointed under an order of the United States Circuit Court, Western District of Tennessee.

Taken pursuant to agreement.

Present—W. Y. C. HUMES, *for Defendants.*

JAS. D. PORTER, being first duly sworn, deposed as follows: 4

I am a resident of Paris, Tennessee, and have been all of my life; I am 50 years old; I was Governor of the State of Tennessee twice, covering the years 1875-6-7 and '8.

5 The leading thought of my administration was an
adjustment of the State debt.

After the State defaulted in the payment of the
interest, I saw that it was impossible to pay the in-
terest out of the revenues of the State according to
the assessment existing at that time; about this
time I received this communication (which I make
Exhibit " A " to this my deposition), and I commu-
nicated it to the legislature in my biennial message
of January, 1877; the legislature did send the com-
6 mission to New York in answer to my recommenda-
tion, and they met a committee of arbiters appointed
at a meeting held at the clearing house in 1877, a
meeting held and controlled by the bondholders of
Southern State bonds and held in the interest of
these bondholders; after a discussion between this
committee of arbiters and this Tennessee commis-
sion, the Court of Arbitration recommended a set-
tlement of the debt of the State of Tennessee by the
issuance of new bonds at the rate of 60% of the total
7 amount; these New York arbiters in their commu-
nication to me stated that this settlement would be
just to the bondholders and honorable to the State;
the legislature adjourned for the want of time with-
out considering their recommendation; in the au-
tumn following, I put myself in communication
with some of the leading bondholders to know if
they would accept the recommendation of that arbi-
tration; they were generally favorable to it; I
therefore called the legislature together in extra
8 session the 5th of December, 1877, and submitted a
message of that date to them in which I warmly
urged that settlement; I submit the message and
the accompanying documents as a part of this my
deposition, and as Exhibit B. hereto; the originals
of the letters in my message, Exhibit B hereto, I
do not know where they are, they are not in my
possession, but I do know they are true and accu-

rate copies, as I compared the proof with the origi- 9
nal before I sent the message to the legislature; I
am satisfied I sent the original letters to the printer
with the manuscript of the message; I did this be-
cause I did not consider them matters to be pre-
served after I had them printed in the message.

After the legislature had spent some days in
wrangling, they were about to adjourn without
doing anything as to the State debt, and I felt that
I had done my duty and would let them go, but
just at this time I received the telegram, Exhibit 10
No. 2, to Calvin Amory Stevens' deposition, and
upon the receipt of this telegram, I at once con-
vened the legislature and sent them a second mes-
sage; that telegram alone induced me to convene
the legislature, and but for it I would not have con-
vened them in the second extra session; it had been
suggested to me on the day before, but I yielded to
Stevens' telegram because I knew from the books
he was a large bondholder, and I believed from his
telegram he expressed the sentiments of most of the 11
bondholders.

Neither B. F. Wilson, R. T. Wilson or C. M. Mc-
Ghee had, nor attempted to exercise, the slightest
influence upon my conduct to bring about a settle-
ment of the State debt through the Legislature, nor
made any effort to do so, except that on the 10th
of December, 1877, B. F. Wilson handed me a tele-
gram from his brother, R. T. Wilson, in which R.
T. Wilson said his house held or represented some
Tennessee bonds, and that they were willing to ac- 12
cept that compromise of 50 cents on the dollar.

I am satisfied my first communication after the
meeting of the New York arbitrators was with Messrs.
E. D. Morgan & Co. I wrote them because of the
high standing and character of Governor Morgan,
and I knew he had a controlling influence among
the bondholders of the State, and I communicated

13 with them often on this subject. As will be seen from the letter of July 7, 1877, from Messrs. E. D. Morgan & Co., Exhibit B to my deposition, I had written to them June 29th, 1877, asking if a settlement of the State debt as proposed on the basis of the New York arbiters would be acceptable to the bondholders, and in their reply they say they will consult the bondholders they represent, and write. And they did, as will be seen from their letter to me of October 19th, 1877, in Exhibit B to my deposition hereto.
14

I had personal interviews with Mr. Peter Geddes in reference to the compromise of the State debt both in New York and Nashville. While he was in Nashville he was in consultation with other gentlemen and myself, who were friendly to and urging the compromise of the State debt. I did not have a doubt of the validity of the debt, and the absolute and entire liability of the State to pay it, and my efforts to bring about an adjustment did
15 not have the slightest reference to the railroads or a single railroad interest; nor was my action influenced by any opinion that in any contingency were they liable for it, or any part of it. And in all of my correspondence with the bondholders no one of them ever intimated a contrary opinion.

The financial condition of the Memphis and Charleston Railroad Company during my administration was so deplorable that I really feared the State would lose the debt due from the road. The
16 company was about to default in the payment of the interest on its debt, and its officers came to me and told me before the interest fell due, that they could not meet it, and asked me if I would put a State Receiver in charge if they defaulted. I told them that I would—that I would treat them as I had others. They told me the road would settle the entire debt under the Act of 1869–70 if let alone. I

did not think it could, and told the officers of the 17
road that if they wanted to hold it they must put
up a guarantee for the defaulted interest and they
did put United States bonds, and I held them as
indemnity for the defaulted interest until the road
finally paid its entire bonded debt; although they
repeatedly applied to me to relinquish the indemnity
so as to enable them to buy bonds and pay off
the bonded debt, but this I refused to do, and held
the indemnity until they settled the entire bonded
debt. 18

During my administration the Mississippi Central
Railroad defaulted, and I at once put it into
possession of the State Receiver, under the Act of
1851–2, and I so held the road from Kentucky to
the Mississippi line until the purchasers paid off the
entire bonded debt of the road under the Act of
1869–70, and I refused from time to time applications
from the Receiver of the United States Court,
holding for the mortgagees, to pay the defaulted interest,
and I told him I would not release the road until 19
the entire bond debt due from it to the State was
paid, and I so notified the purchasers before their
purchase of the road under the decree of the United
States Court, that I would give no one charge of the
road until its entire bond debt was paid, and I held
it until they came up and paid it under the Act of
1869–70. Under the Internal Improvement Act the
stockholders, upon the payment of the defaulted interest,
were entitled to the management of the road,
and I know the purchasers had no such right under 20
the law, and I used this power to coerce from them
the payment of the entire bond debt under the Act
of 1869–70. The Mississippi and Tennessee Railroad
during my administration settled their bond
debt under the Act of 1869–70. Legal proceedings
on behalf of the State had been begun before I was
Governor for the sale of the deliquent roads, the

21 Knoxville and Charleston and Tennessee and Pacific, the sales of these two roads were perfected during my administration under the Act of 1869-70, the payments for them were received by me and the possession of the roads delivered to the purchasers. The interest collected and paid over by the Receiver of the Mississippi Central Road passed into the treasury as ordinary revenue. No claim was ever made by the holders of coupons of the bonds issued to that road for the interest collected by my
22 Receiver. I am a lawyer by profession; I was elected Judge of the 12th Judicial Circuit at the regular election in 1870, for the full term of eight years, and I resigned after a service of 3½ years.

I have never had the slightest interest in or connection with any railroad, except as Governor of the State and representing her interest I have on the hustings a hundred times told the people I believed they were liable for the whole debt and ought to pay it. And I have never advocated the
23 payment of less than that except where I believed it was best for the creditor and he was willing to take it. And in all of my recommendations to the Legislature to pay less, it was where the propositions came from the bondholders. And in my biennial message to the Legislature just as I retired from the office, I told them I believed it would be best for the people to shoulder and pay the entire debt; said passage of said message is hereto made, Exhibit "C."—And further saith not.

24

JAS. D. PORTER.

Subscribed and sworn to before me, March 9th, 1880.

L. W. Humes,
Special Examiner.

EXHIBIT "A." 25

To Jas. D. Porter's Deposition.

New York, December, 1877.

To His Excellency, James D. Porter, Governor of Tennessee:

Sir: The undersigned holders of bonds of the State of Tennessee, believing that the best interests of Tennessee, and of her public creditors, will be served by an early permanent adjustment of the claims of such creditors on a basis honorable to the 26 State and equitable to them, respectfully ask your Excellency, in the full belief that such a settlement is practicable, to recommend that the Legislature of Tennessee, as early as may be possible at its ensuing session, appoint a commission to come to this city, and confer with the holders of bonds of the State of Tennessee, for the purposes mentioned herein.

We remain your Excellency's most obedient servants. 27

GEO. SMITH, London, England,
by Geddes & Smith, agents, &c.
BROWN BROTHERS & Co., agents.
DREXEL, MORGAN & Co.,
E. D. MORGAN & Co.,
WARD, CAMPBELL & Co.,
JAMES G. KING'S SONS,
Agents for holders.
GEORGE W. STANTON,
P. GEDDES. 28

29 **EXHIBIT B**

To Jas. D. Porter's Deposition.

Governor's Message.

MESSAGE

of

GOVERNOR JAS. D. PORTER

30

to the

FORTIETH GENERAL ASSEMBLY

of the

STATE OF TENNESSEE.

FIRST EXTRA SESSION.

December 5, 1877.

31

NASHVILLE, TENNESSEE.

PRINTED AT "THE AMERICAN" BOOK AND JOB ROOMS.

1877.

GOVERNOR'S MESSAGE.

32

Gentlemen of the Senate and House of Representatives:

I have convened the General Assembly in extraordinary session for the purpose of considering the following recommendation to adjust the State debt: "*That after adding the arrears of interest the* *aggregate amount of the State debt should be readjusted by the issue of new bonds at the rate of sixty per cent. of the total amount*; i. e., *for every sum of one thousand dollars, new bonds should be given in exchange and full settlement for six hundred dollars, or for proportionate amounts, the new bonds to carry six per cent., payable semi-annually in the city of New York, the principal payable in thirty years, the interest coupons to be received by the State for all taxes.*" 33

This is the recommendation made by a Committee 34 of Arbiters, appointed at a meeting of citizens held at the Clearing House in New York City, in January, 1877, after a conference with the delegation appointed by the General Assembly. On the 22d of February, 1877, in a special message, I urged the General Assembly to send this committee of conference, and recommended that all questions touching the State debt "be postponed to await the action of the arbiters," and announced that if this policy was adopted, "and if time becomes essential 35 I will not hesitate to convene the General Assembly in extraordinary session."

On the 19th of March, 1877, the Legislative Committee reported to the General Assembly the result of the conference; seven days thereafter the two Houses adjourned without taking action upon this report. Under the circumstances mentioned, I have recognized it as my duty to call you from your homes to consider this recommendation, and to respectfully and earnestly recommend its adoption. 36

Since the adjournment of the General Assembly, the debts due from the Memphis & Charleston and Mississippi Central Railroads have been paid; deducting the sum of $299,814, the amount of the debt of the Mississippi and Tennessee Railroad, not due, and for which the State has ample security, the debt of the State on the first of January, 1878, 37 will amount to $23,212,606; this includes the bonded debt not due, the bonded debt past due, five full installments of interest, and balances of several installments not presented, amounting to $40,000. The greater part of this debt was incurred prior to 1861. The following table exhibits the amount issued since the late war between the States, the amount canceled and the amount now outstanding:

38

	Regist'd and not canceled.	Regist'd and canceled.	Canceled before Registration.	East Tennessee Unive'ity.	Mineral Home.	Unaccounted for.	Total.
Green, no letter	2388	321	7021	113	120	37	10,000
" "B"..	645	114	4283	100	....	61	5,203
" "C"..	598	60	1401	2	...	139	2,200
White, "D"..	2416	429	2006	37	....	53	4,941
39 Grand Total...	6047	924	14711	252	120	290	22,344

The first series, Green, no letter, were issued under the Act of 1851-2, and amendments, $9,593,000 issued to railroads and turnpikes, and $407,000 were renewals of bonds past due. The second series, Green "B," were issued under authority of the Act of 1851-2, $290,000 were renewals for past due bonds, the balance issued to railroads and turnpikes. The third series, Green "C," and fourth
40 series, White "D," issued under Acts of 1866 and 1868, were for past due interest, and known as Funding Bonds. This table shows that there are now outstanding $3,033,009 of the bonds popularly known as "Brownlow Bonds."

The debt is accumulating at the rate of four thousand dollars per day, and if the present condition of affairs continue, it is an easy calculation

to determine how soon the debt will gain volume 41
enough to destroy the prosperity of the State and bring discredit upon all of its citizens.

THE VALIDITY OF THE DEBT.

No question can now arise as to the validity of the public debt with the exception of the inconsiderable amount issued to Mineral Home Railroad, which has been declared fraudulent; the people of Tennessee, through their representatives, have in
the most formal and solemn manner recognized it 42
by the bonds of any series being declared receivable in payment of the purchase money for delinquent railroads. It was again recognized by the funding act of 1873, by which the obligation of the State was renewed by paying interest on the entire debt and the principal at maturity, and the validity of the several series of bonds have been recognized by the 39th and 40th General Assembly by being declared receivable in discharge of debts due to the
State, and I assume that no judicial tribunal would 43
now pronounce against the funded and registered bonds.

But the New York arbiters say in the report made to the General Assembly, after a full discussion with the legislative committee, "when all the circumstances under which the debt was incurred, the peculiar condition of affairs in the State, together with its present ability and its future resources," that the compromise recommended by them is
"just and fair both to debtor and to creditor." 44
The adoption of this recommendation of a tribunal so disinterested and distinguished without consulting the holders of our bonds, would relieve the State of the suspicion of unfairness or of the charge of repudiating an acknowledged liability. But such a number of the bondholders have signified their willingness to accept the terms of the adjustment as

45 to satisfy me that if it is made it will be generally
acceptable. I transmit the proposition of the bondholders.
The terms are liberal to the State, the
creditors voluntarily make the suggestion, and it is
consistent with the dignity of the State to accept
the abatement. The financial condition of the State
is the only barrier to immediate prosperity. Its
greatest want is capital and immigration. Both will
avoid us unless the public debt is provided for.
Men do not buy where the tenure of property is insecure,
46 or where public obligations are disregarded.
One of the highest duties of the citizen is the maintenance
of the public credit; without it little is left
worthy of public preservation.

THE ABILITY OF THE STATE.

There is to my mind no question as to the ability
of the State to meet the interest on the debt, if adjusted
upon the terms offered by its creditors. The
present assessed value of the property of the State
47 is $236,000,000, and is an unusually liberal one to
the tax-payer. Tennessee contributes to the markets
of the world, with her cotton, grain and tobacco as
largely, and is as rich in soil, minerals and productions
as any State in the Union. The value of the
principal crops raised in Tennessee during the year
1876, amounted to $47,126,310, not less than onethird
of which was surplus. The productions of
the State of Kentucky for the same period was $2,687,560
less. Tennessee produced seventeen millions
48 more than Virginia, three millions more than
Georgia, more than Maryland and South Carolina
combined, more than Alabama and Florida, and
seventeen million more than North Carolina, while
the difference in population is in favor of Kentucky
and Georgia, and Maryland and South Carolina
combined. The productions of the State for the
year 1877 amounted to over $52,000,000, with an

increase surplus of cotton, wheat and tobacco, 49
and the value of farm products is greater per capita in Tennessee than it is in any of the States named, and greater, according to the last census report, than it is in the rich States of New York, Pennsylvania and Missouri. There are other productions of the State, cattle, mules, horses, sheep, bacon, fruit, marble, iron, from which large revenues are derived, with an increasing area and capacity for productions.

The bonds of the State were issued for purposes 50
of internal improvement, very many of them were sold above par, and are now held by the original purchasers, by educational and charitable institutions; among the latter class is the Peabody Institute, at Baltimore, Maryland, which has signified through the proper officer a willingness to accept the terms of the proposed adjustment; the greatest American philanthropist, George Peabody, left as part of the endowment to this Institute that bears
his name, $364,000 in bonds of the State of Ten- 51
nessee. Since 1868 the children of Tennessee have received from the Peabody Trust Fund, for their education, the sum of $191,650, and for the year 1878, an appropriation that will make it exceed $200,000. The State of Tennessee cannot, in my opinion, accept this abatement, or that proposed by the holders of bonds issued for the erection of the Capitol, those held by educational institutions, by charities, or by persons whose guardians made the
investment in pursuance of our statute authorizing 52
the investment of the estate of minors in the bonds of the State.

If the adjustment recommended is adopted, I recommend that the new bond shall bear date July the first, 1878, to carry interest from that date: provision for a Sinking Fund can with propriety be postponed, but in case of a surplus in the Treasury

53 after liquidating the appropriations made by law, it would be well to provide for its investment in the bonds of the State, and in this way inaugurate a system for the gradual extinguishment of the principal of the debt.

THE COLLECTION OF THE REVENUE.

The Comptroller of the Treasury, in his biennial report to the General Assembly, states that "it is believed that the compensation allowed Trustees is
54 inadequate to the labor and responsibility of the office, especially in the smaller counties where there is little or no municipal taxes to be collected;" experience has confirmed the wisdom of this recommendation; in one of the counties of the State there is no collector, no one being willing to accept the office for the compensation allowed by law; in several others resignations have been tendered. The revenue cannot be efficiently collected in the smaller counties for an inadequate compensation, and I re-
55 commend such an amendment to the statute as will secure this result.

It will be necessary to provide by law for the expenses of this extraordinary session of the General Assembly.

CONCLUSION.

The gravity of the question submitted to you will, I doubt not, command your most deliberate consideration; counselling wisdom and calmness in its
56 discussion, I leave it with you, in the confident belief that your action will be controlled by your convictions of duty to your constituents.

JAMES D. PORTER.

DOCUMENTS 57

ACCOMPANYING THE

GOVERNOR'S MESSAGE.

LETTER FROM JOHN B. MANNING, NEW YORK.

NEW YORK, November 1, 1877.

To his Excellency, JAS. PORTER, 58
Governor of Tennessee:

I am authorized on behalf of a large number of Tennessee bondholders to submit proposition of compromise by accepting sixty cents on the dollar for bonds and past due coupons, payable in new six per cent. consols, and ask you to convene the Legislature to carry out the compromise.

JOHN B. MANNING.

(Represents $2,000,000.) 59

LETTER FROM A. R. HALL, HUNTINGDON, TENN.

HUNTINGDON, TENN., November 23d, 1877.

Governor JAMES D. PORTER:

Sir: Since writing you yesterday I notice that the terms of my proposition differ somewhat from those contained in your proclamation. In order 60 that not the least obstacle may be thrown in the way of settlement, I am willing to accept the terms put forth in your proclamation.

Very respectfully,
A. R. HALL.

61 LETTER FROM G. W. NORTON & CO., LOUISVILLE, KENTUCKY.

LOUISVILLE, KY., October 27, 1877.

JAMES L. GAINES, Esq., *Comptroller*,
Nashville, Tenn.:

Dear Sir: Your favor of 25th inst. is received and noted. As stated in ours of 24th inst., the members of this firm have held and owned Tennessee State bonds for more than twenty years, having faith
62 in them as a safe and good investment. The Clearing House Committee of New York, Geo. S. Coe, Esq., Chairman, recommended an adjustment of the State debt of Tennessee by issuing a new six per cent. bond, with coupons receivable for all taxes and dues to the State, to the extent of sixty per cent. of the principal and accrued interest of the present outstanding State bonds, and if the Tennessee Legislature would certainly adopt this plan of adjustment, without any modification whatever,
63 we would be willing to accept it, as far as we are concerned, and, as stated in ours of the 24th inst., we believe it would be generally accepted by the bondholders if promptly offered, but in our opinion, the bondholders would not accept any less than this. If the Legislature will certainly adopt the Coe recommendation, then we should be pleased to see an early called session of the Legislature. We have no objection to you placing this letter and ours of the 24th inst., in the hands of Governor Porter, as sug-
64 gested by you. Truly respectfully,

G W. NORTON & CO.

LETTER FROM EUGENE KELLY, NEW YORK. 65

New York, October 19, 1877.

To his Excellency, James D. Porter,
Governor of Tennessee :

Sir : The undersigned owners and representatives of holders of bonds of the State of Tennessee, beg to inform you that they are willing to accept new bonds of the State, having thirty years to run, bearing six per cent. interest, payable semi-annually in the city of New York, coupons to be receivable 66 for taxes and all other dues to the State, at the rate of sixty per cent. for the present bonds and past due coupons, in accordance with the terms of the award of the Committee of Arbitration on the debts of the Southern States.

The undersigned, therefore, respectfully request Your Excellency to convene the Legislature in extra session, and submit this proposition to it.

With much respect, we beg to remain
Your obedient servants, 67
EUGENE KELLY.
(Holds $297,000.)

LETTER FROM W. G. STANTON, JR., AND E. D. MORGAN & CO. NEW YORK.

New York, October 19, 1877.

To His Excellency Jas. D. Porter, 68
Governor of Tennessee:

Sir: The undersigned owners and representatives of holders of bonds of the State of Tennessee beg to inform you that they are willing to accept new bonds of the State having thirty years to run, bearing 6 per cent. interest, payable semi-annually in the city of New York; coupons to be receivable for

69 taxes and all other dues to the State, at the rate of 60 per cent. for the present bonds and past due coupons, in accordance with the terms of the award of the Committee of Arbitration, on the debts of the Southern States, provided the law is passed before the first of February next. The undersigned therefore respectfully request Your Excellency to convene the Legislature in extra session, and submit this proposition to it.

70 With much respect, we beg to remain

Your obedient servants,

G. W. STANTON, JR.
E. D. MORGAN & CO.

---

71 LETTER FROM BONDHOLDERS OF BALTIMORE.

BALTIMORE, October 19, 1877.

To His Excellency JAMES D. PORTER,
Governor of Tennessee:

Sir: The undersigned owners and representatives of holders of bonds of the State of Tennessee, beg to inform you that they are willing to accept new bonds of the State, having thirty years to run,
72 bearing 6 per cent. interest, payable semi-annually in the city of New York; coupons to be receivable for taxes and all other dues to the State, at the rate of 60 per cent. for the present bonds and past due coupons, in accordance with the terms of the award of the Committee of Arbitration on the debts of the Southern States.

The undersigned, therefore, respectfully request

Your Excellency to convene the Legislature in extra 73
session, and submit this proposition to it.

With much respect, we beg to remain

Your obedient servants,

($444,700.) WILLIAM McKIM,
President of the Peabody Institute, Baltimore.
JOHN BOLGIANO,
SAMUEL L. PETERS,
FRANCIS WHITE,
JOSEPH H. RIEMAN, 74
A. RIEMAN,
THOS. WILSON,
A. D. O'LEARY,
DANIEL H. SHRIVER,
BENJ. W. BENNETT,
By D. H. Shriver.
JOHN CUSHING,
EDW. K. SCHAEFFER,
FRANCIS A. CROOK,
Treasurer of the Baltimore Equitable Society. 75
FRANCIS A. CROOK.

LETTER FROM E. D. MORGAN & CO., NEW YORK.

NEW YORK, July 7, 1877.

To His Excellency, Gov. JAS. D. PORTER,
Nashville, Tenn.: 76

Dear Sir: Your favor of the 29th ult., addressed to Messrs. Geddes & Smith and ourselves, has been received, advising that you propose to convene the General Assembly after the new assessment has been completed, in November, for the purpose of adjusting your State debt.

You ask if a settlement upon the basis proposed

77 by the Arbiters in March last will be acceptable to the bondholders, and desire us to confer with them and advise you. We will communicate with you later on, after learning the views of the foreign holders whom we represent, as also of some of the larger holders here.

We are told that it is represented in Tennessee that large amounts of your State bonds are held by parties who bought at late current prices. We beileve that very few are so held. Our observation 78 leads us to believe that nearly all the bonds which the necessities or fears of holders have forced to sale of late years have been absorbed by your railroads for settlement with the State. We find them generally held by original investors, who believe that your State will in the end pay them, principal and interest.

Very respectfully,

E. D. MORGAN & CO.

79

EXHIBIT C,

To Jas. D. Porter's Deposition.

THE PUBLIC DEBT.

The State has issued 49,393 bonds, amounting to $49,173,316.66; the number cancelled is 28,385, amounting to $28,163,016.66; the number now outstanding as a liability against the State is 20,219, 80 amounting to $20,221,300. In ten years the State has paid three installments of interest, seven are past due, amounting, after deducting $149,050 paid to educational and charitable institutions, to $4,052,-717, making a debt of principal and interest of $24,274,000.17. The settlement of this debt is paramount to all questions of legislation that can engage the attention of the General Assembly; it involves the honor and good name of the State, the credit and honor of every one of its citizens; it is a liability that was voluntarily contracted, and whether it was wisely created or not, cannot now be questioned. I hold, and have always believed, that in the light of moral and legal duty, as a question of commercial honor and of State pride, the best settlement of the debt for Tennessee would be to pay the entire debt according to the terms of the contract; this would be a heavy burden, but when it became oppressive a temporary suspension of the interest payment could be made, and with a return of prosperity, with a moderate increase of population, and a reasonable development of our resources, now in full fruition, the whole debt could be paid without serious embarrassment to any one. But the creditors themselves have relieved the State of the necessity of providing of the entire debt by offering such an abatement of the principal as to bring its payment within the ability of the State without making it burdensome. In December, 1877, certain creditors of the State proposed to adjust that part of the debt held by themselves upon a basis of fifty cents for principal and past due interest, and offered assurances that the great body of the creditors would accept the same terms; this proposition was submitted to an extra session of the Fortieth General Assembly, and its passage earnestly recommended. I am satisfied that the creditors making this proposition would still make the adjustment; settled at fifty cents the debt would amount to $12,137,000, the annual interest upon this sum, at six per cent., would amount to $728,220. I do not hesitate to again urge the acceptance of this proposition.

DEPOSITION OF M. T. POLK. 1

United States Circuit Court,

WESTERN DISTRICT OF TENNESSEE, AT
MEMPHIS, TENNESSEE.

CALVIN AMORY STEVENS, FOR HIMSELF AND OTHERS *vs.* THE CHICAGO, ST. LOUIS & NEW ORLEANS RAILROAD COMPANY.	*No.* 317.

2

Deposition of M. T. Polk, a witness for defendant, taken before me in the above named cause, in the presence of James Fentress, solicitor for defendants, and S. Watson, Jr., solicitor for complainants. 3

Said witness, being first duly sworn to speak the truth, the whole truth, and nothing but the truth, deposes and says:

Q. 1. State your residence, and also what office, if any, you now hold in Tennessee, and how long you have held it?

A. I live in Nashville, Tennessee, and am the present 4
Treasurer of the State; my former residence was in Bolivar, Tennessee, where I am now.

Q. 2. How long have you been Treasurer of Tennessee?

5 A. Since the 7th day of February, 1877.

Q. 3. Has any holder of the bonds of Tennessee, prior to the beginning of this suit, applied to you, as such Treasurer, at any time, to set apart any of the revenues of the State, as provided in section 3 of the Funding Act of 1873: if so, when and who?

A. No one has made such application.

Q. 4. Has any such application been made since the beginning of this suit, or at any time?

A. No.

6 Q. 5. What amount of State revenue has come into the Treasurer's office of Tennessee each year since you have been Treasurer, which might have been set apart under the third section of the Funding Act of 1873? If you have not the exact official figures with you, give your best recollection.

A. I prefer to give exact figures, and can only do so by referring to my books in my office at Nashville, which I will do, and send the sworn certificate next week; if the third section of the Funding Act of 1873 contem-
7 plated appropriating all the revenue received into the Treasury, first, to the payment of interest on the funded and registered bonds of the State, then to the payment of interest on bonds held by educational institutions, and the school fund of the State, the Treasurer received and could have paid out during 1877, $1,320,920.97; for 1878, $656,528.84; for 1879, $491,931.89.

Q. 6. Did any holder of Tennessee bonds, ever claim, prior to the bringing of this suit, so far as you know, that any bond issued by the State of Tennessee was a
8 lien, or secured by a lien on any railroad in Tennessee?

A. Never; the claim was new to me.

Q. 7. State what balance, if any, was in the Treasury of the State of Tennessee on the 24th of January, 1879?

A. On the 24th of January, 1879, there was in the Treasury at the close of business, $411,408.64.

Marshall T. Polk,
Treasurer of Tennessee.

STATE OF TENNESSEE, } 9
Davidson County. }

I, Lewis T. Baxter, clerk U. S. Ct., do hereby certify that the foregoing five pages were taken before me, as stated in the caption, and that all the answers were written by the witness himself, and that when the same was read over to him, he made oath in due form of law that the same was true.

In witness whereof, I have hereunto set my hand and official seal, this the 31st day of March, 1880. 10

LEWIS T. BAXTER,
Clerk.

Circuit Court,
U. S. Middle
Dist., Tenn.
Seal.

11

12

Deposition of James L. Gaines. 1

The said James L. Gaines, a witness on behalf of the defendants in the foregoing entitled causes, who being first duly sworn and cautioned, deposes and says as follows:

My name is James L. Gaines, am aged 39 years, am Comptroller of the Treasury of the State of Tennessee, and have been since 1875. I am familiar with the bonded indebtness of the State of Tennessee. 2

The State had issued first bonds for stock in the Union Bank and the Planters Bank, turnpike bonds. Bonds in aid and to buy stock in the Memphis and LaGrange Railroad. Bank of Tennessee bonds, to buy stock (these were all prior to 1838), other turnpike bonds, bonds to build the Capital of the State were next issued in 1848, and then the bonds issued in aid of the railroads under the Internal Improvement laws of 1851-2.

3 Below I give a table of the amounts and purposes for which all the bonds have been issued for all purposes to-wit:

Amounts issued, grouped according to purpose of issuance:

	Amount.	Total.	
Banks,	$3,000,000.00		
Railroads,	29,000,000.00		
Turnpikes,	1,499,066.66		
Capital,	866,000.00		4
Agricultural Bureau,	30,000.00		
Hermitage,	48,000.00		
Renewals,	697,000.00		

5	Funding Bonds, 1866,...	4,941,000.00
	" " 1868,...	2,200,000.00
	New Series, 1873,.......	6,641,000.00

Total amount of Bond issued,.......$49,173,316.66.

Of the bonds issued in aid of the Nashville and Northwestern Railroad Company, there are now outstanding 1,422 bonds of $1,000 each.

There are outstanding of the bonds issued in aid of the McMinnville & Manchester Railroad, 360
6 bonds of $1,000 each—$360,000.

There are outstanding of the bonds issued in aid of the Winchester & Alabama Railroad, 479 bonds of $1,000 each—$479,000.

There are outstanding of the bonds issued in aid of the Nashville & Chattanooga Railroad, 120 bonds of $1,000 each—$120,000.

The balance have been cancelled; most of them were cancelled in liquidation of the indebtedness of the railroad to the State.

7 All of the bonds mentioned above as outstanding against several railroad companies have been registered under the Act of 1873, except 67 issued to the Nashville and Northwestern, 13 to the McMinnville and Manchester, 36 to the Winchester and Alabama and 9 to the Nashville and Chattanooga Railroad. And every bond presented for registration, and which had upon it coupons past due, the latter were funded in new series funded bonds of the State of Tennessee.

8 Of the $49,173,316.66 bonds issued by the State, $20,221,300 are now outstanding. The difference has been cancelled by renewal of past due bonds and by liquidation of debts due by the railroads. The bonds issued previous to 1851 bore 5, 5½ and 6 per cent. interest, payable semi-annually. These bonds issued before 1851, were payable some in 15, 20, 25 and 30 years after date.

The familiar designation given the bonds issued by the State was as follows : 9

White A, issued under Act of 1838.
White bond, No Letter, East Tenn. and Ga. R. R. bonds under Act of 1850. Capitol bonds.
White B, issued under Act 1851 and 1852.
" C, issued under Act 1851 and 1852.

These are all ante-war bonds, and were not all issued under Internal Improvement Laws. 10

"Green, no letter," under Act 1851-2 and amendments.
"Green B," under Act 1851-2 and amendments.
"Green C," under the Act of 1868.
"White D," under the Act of 1866.
"Green F," or "New Series Funding Bonds" under the Act of 1873.

The last three series are known as funding bonds. The last five series are post war bonds. 11

Of White B bonds there were issued $11,833,000, and they were all issued to railroads, except 25 bonds to turnpikes, 48 on account of Hermitage purchase, and 30 bonds to Agricultural Bureau.

White C were all issued to railroads; all of the bonds of White B, are known as one series, and so of White C.

There is nothing on the face of the bonds known as White B, to indicate whether issued to railroad company or for other purposes. 12

The further taking of this deposition, by consent of parties, is adjourned until Tuesday morning at 10 o'clock.

TUESDAY MORNING, Sept. 2, 1879.

By consent of counsel, the further taking of this

13 deposition is adjourned until to-morrow morning at ten o'clock.

Wednesday Morning, Sept. 3d, 1879.

Present—Edward H. East, Solicitor for Defendants, and Samuel Watson, Solicitor for Complainants.

The witness, James L. Gaines, being interrogated, deposes further as follows:

14 On examination of cancelled bonds issued for purchase of Hermitage and to the Agricultural Bureau, I find that they were issued on the same plate as the other "White B" bonds issued in aid of the railroads, with the exception that on the face of all the bonds (I have examined), issued to the Agricultural Bureau, the figures 1851-2, printed in the bonds is erased and changed in ink 1855-6, and to "Agricultural Bureau" added in ink, *and* in case of the Hermitage bonds examined by me, I
15 find they are printed on the same blank as above with the figures 1851-2, erased with pen and ink.

I herewith file a copy of the different specimens of "White B," marked Exhibit A, B and C respectively, attached hereto and made a part hereof. A few of the first numbered of the White B are on blue paper, so are also some of the bonds issued for building the capitol.

There is a separate series of bonds in the case of those issued in aid of the East Tennessee and
16 Georgia Railroad Company, known as white bonds, no letter, but no separate series issued in aid of any other railroad company of which there are any now outstanding. Many different railroad companies received bonds of the same series.

There is nothing in my office showing or identifying what particular bond was issued to any railroad that I know of, except the receipt executed to the

Governor by the several companies for the bonds 17
received by them.

The receipts are on file in the office of the Secretary
of State, and copies of them I am informed are
on file as evidence in these causes.

Since 1875, and while I have been Comptroller,
and after the Bank of Tennessee ceased to do business,
the railroad companies proposing to pay interest
had to settle with me as Comptroller of the
Treasury, and having ascertained the amount due
from them if they paid in money, they obtained 18
from me a receivable warrant authorizing the Treasurer
to receive from said company the amount so
ascertained to be due from them as interest on the
bonds issued in aid of their particular road.

If they paid in coupons, they did so in coupons
due at the same time the interest was due from
them, and for which I executed to them a receipt.

I received as comptroller coupons from any bonds
issued by the State in payment of said interest due
from the said railroad companies, provided the 19
coupons corresponded, as above stated, in date when
due, and such I believe to have been the custom of
my predecessors since the passage of the Act allowing
payment of interest in coupons, except that
they may have received any past due coupons from
any State bond.

The State has paid the interest on all bonds presented
and falling due July 1, 1875, also the interest
falling due January, 1875, and December, 1874,
making in all the three payments of interest due on 20
the bonds issued by the State since I have been in
office.

Cross-examination:

The Agricultural Bureau bonds were issued under
the Act of the General Assembly of the State of
Tennessee, passed in 1856, Chapter 95. The Hermi-

21 tage bonds were issued under Act of February 11,
1856, Chapter 96.

The bonds issued to the Dyensburg & Mississippi
Turnpike Company were so issued under the Act
of February 5, 1852, Chapter 110, and were payable
in thirty years or less, if they conformed to the
terms of the Act authorizing their issuance.

The bonds of the State were not in any published
reports of comptrollers designated by series until
the pubished report of Comptroller Burch, made to
22 the legislature of 1875.

The account of the bonded indebtedness of the
State of Tennessee, before the report of Comptroller
Burch in 1875, was kept and published in the comp-
troller's report, as follows:

State debt proper, comprising bonds issued by
the State for stock in turnpike and railroad com-
panies, bonds issued to buy the Hermitage and State
Capitol, and for stocks in banks, and to the Bank
of Tennessee.

23 *Endorsed bonds*, comprising bonds issued by
railroads, and endorsed by the State.

Bonds loaned to railroad companies, turnpike
companies, plank roads, and Agricultural Bureau.

Of the bonds now outstanding, issued to the
McMinnville & Manchester Railroad (111), one
hundred and eleven were issued after the war.

Of the bonds now outstanding, issued to the
Winchester & Alabama Railroad (189), one hundred
and eighty-nine were issued after the war.

24 Of the bonds now outstanding, issued to the
Nashville & Northwestern Railroad (404), four hun-
dred and four were issued after the war.

And of the bonds now outstanding, issued to the
Nashville & Chattanooga Railroad (34), thirty-four
were issued after the war.

The Memphis & Charleston Railroad Company
paid me as comptroller about $25,000 in currency,

or money on interest account. And the Receiver of the Mississippi Central paid in cash $110,000, and about $90,000 of which was applied to the interest account of said road. 25

I simply know of the existence of a printed statement made by Comptroller Pennebaker, made in 1870, showing the bonds issued to the different railroads, giving the number and amount of the bonds, and who receipted for the same. A loose sheet (comprising same) I found in my office.

And further deponent saith not. 26

JAS. L. GAINES.

Subscribed and sworn to before me this 2d Sept. 1879.

E. R. CAMPBELL,
Examiner.

EXHIBIT A.

White B.

Copy of the bonds issued for Hermitage purchase. 27

M. No. 3,563. B. M.

UNITED STATES OF AMERICA.

State of Tennessee.

Know all men by these presents, that the State of Tennessee acknowledges to owe to , or order, one thousand dollars lawful money of the United States, which sum the said State promises 28 to pay in the City of New York on the 1st day of January, 1892, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor and upon the presentation of the coupons hereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pur-

29 suance and under the provisions of an Act of the General Assembly of the State, passed at its session of 1851-2 (sic).

The
Great Seal of the
State of
Tennessee.

In witness whereof, I, Andrew Johnson, Governor of said State, have hereunto signed my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed, at Nashville, this 1st day of January, 1856. 30

ANDREW JOHNSON,
Governor.

F. N. W. Burton,
Secretary of State.

1,000. 1,000.

EXHIBIT B.

31 AGRICULTURAL BUREAU BONDS. WHITE B.

United States of America.

M. No. 4,460. B. M.

State of Tennessee.

Know all men by these presents that the State of Tennessee acknowledges to owe to the State Agricultural Bureau or order one thousand dollars, lawful money of the United States, which sum the said 32 State promises to pay in the city of New York on the 1st day of January, 1892, with interest at the rate of six per cent. per annum, payable semi-annually, according to the tenor and upon the presentation of the coupons hereto attached. For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged, as this bond is issued in pursuance and under the provisions of an act of the General Assembly of said State passed at its session of 1855-6, (sic) to Agricultural Bureau. 33

THE
GREAT SEAL
OF THE STATE OF
TENNESSEE.

In witness whereof, I, Andrew Johnson, Governor of said State, have hereto signed my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed at Nashville, this 1st day of January, 1856. 34

ANDREW JOHNSON,
Governor.

F. N. W. BURTON,
Secretary of State.

1,000. 1,000.

Endorsed:

E. G. EASTMAN,
Secretary Tennessee State Agricultural Bureau. 35

"EXHIBIT C."

M. M.

BOND ISSUED TO MEMPHIS, CLARKSVILLE & LOUISVILLE R. R. CO.

UNITED STATES OF AMERICA.

No. 11,285. B.

State of Tennessee. 36

Know all men by these presents that the State of Tennessee acknowledges to owe
or order one thousand dollars, lawful money of the United States, which sum the said State promises to pay in the city of New York on the 1st day of January, 1898, with interest at the rate of six per cent. per annum, payable semi-annually, according to the

tenor and upon the presentation of the coupons hereto attached.

For the performance of all which the faith of the State of Tennessee is hereby irrevocably pledged as this bond is issued in pursuance and under the provisions of an act of the General Assembly of said State passed at its session of 1851-2, and acts amendatory thereto.

THE
GREAT SEAL
OF THE STATE OF
TENNESSEE.

In witness whereof, I, Isham G. Harris, Governor of said State, have hereto signed my name and caused the same to be countersigned by the Secretary of said State, and the Great Seal of said State to be hereto affixed at Nashville this 1st day of January, 1860.

ISHAM G. HARRIS.
Governor.

J. E. R. RAY,
Secretary of State.

1,000. 1,000.

1

DEPOSITION OF JAMES L. GAINES.

IN THE

Circuit Court of the United States,

FOR THE WESTERN DISTRICT OF TENNESSEE, AT MEMPHIS, TENNESSEE. 2

CALVIN AMORY STEVENS, FOR HIMSELF AND OTHERS,

versus

THE CHICAGO, ST. LOUIS & NEW ORLEANS R. R. CO., ET AL. 3

No. 317.

The deposition of James L. Gaines, witness for defendant, taken by agreement of parties in the presence of JAMES FENTRESS, solicitor for defendants, and S. WATSON, Jr., solicitor for complainant, on the 24th day of March, 1880, at Nashville, Tennessee. 4

The said witness having been duly sworn to speak the truth the whole truth and nothing but the truth, deposes and says:

Question 1 by defendant. What office do you now hold in Tennessee, and how long have you held it?

Answer. I hold the office of Comptroller of the State of Tennessee, and have held it since February, 1875.

5 Q. 2. Was a Receiver appointed by the State or any of the authorities thereof of the Mississippi Central Railroad; and, if so, when, and who was appointed?

A. Governor James D. Porter appointed R. P. Neely, Receiver of the Mississippi Central Railroad Company, in February, 1876.

Q. 3. How long did said State's Receiver remain in possession of said Mississippi Central Railroad; and what was the gross amount he collected as Receiver for the State during the time the State held said railroad?

6 A. The State's Receiver remained in possession of said Mississippi Central Road from the date of his appointment until the settlement of the said road's indebtedness to the State, on 28th November, 1877; a report of his transactions, as Receiver, was made by him and filed in the Comptroller's office, but the same was delivered on demand to a Legislative Committee of the General Assembly of 1879, and was never returned to the office by said committee; I am, therefore, unable to state the gross amount reported collected by him as Receiver, during 7 the time the State held said railroad.

Q. 4. How much actual money, if any, did the Receiver for the State aforesaid pay over to you as Comptroller; give amounts and date of such payments?

A. The Receiver aforesaid did pay over to me as Comptroller, the total sum of one hundred and ten thousand dollars; the several payments aggregating this total, were made as follows:

	May 20,	1876,	$10,000	Dec. 11,	1876,	$10,000
8	Aug. 10,	"	5,000			
	Sept. 7,	"	5,000	Dec. 26,	1876,	10,000
	" 13,	"	5,000	Jan. 10,	1877,	10,000
	Oct. 18,	"	5,000	" 25,	"	10,000
	Nov. 9,	"	5,000	Feb. 14,	"	10,000
	Dec. 4,	"	5,000	" 24,	"	10,000
				Apr. 11,	"	10,000

Q. 5. What was done with said $110,000 in money so paid into the State by said Receiver? 9

A. It was paid into the State treasury like any other funds or revenue due the State on my receivable warrant to the State Treasurer, who gave his receipt to the Receiver.

Q. 6. Was there any proposition to settle the interest past due by Mississippi Central Railroad with the State, or propositions looking to relieving the said railroad from the State's Receivership; if so, did the State authorities accept such proposition? 10

A. Propositions were made to settle the past due interest and the sinking fund account of the Mississippi Central Railroad, but the State authorities declined to accept said proposition or to surrender the road until the settlement of the whole debt due the State by the road.

Q. 7. Were any representations made by the State authorities of Tennessee to the purchasers of the Mississippi Central Railroad, prior to their purchase, as to State's lien, substitution bonds, etc.; was any suggestion made as to how the purchaser might discharge the debt 11 claimed by the State against said railroad under her internal improvement laws; if so, state them?

A. I remember conversations had with Governor Porter in this connection, and we agreed, and it was so represented to the representatives of the purchasers, that the State had an exclusive lien on the road and its property to the extent of its indebtedness to the State, and that on payment of this indebtedness the purchasers would be substituted to the State's lien; that said indebtedness could be paid in any series of the bonds of 12 the State which were then at a discount in the market.

Q. 8. Did said purchasers afterwards buy the Mississippi Central Railroad; and if so, did they act upon the representations of the State authorities aforesaid; if so, state what was done?

A. The said parties did purchase the Mississippi Central Railroad on these representations, and under mort-

13 gage of 8th November, 1877, made by Chicago, St Louis & New Orleans Railroad to Adolphe Schreiber, James Fentress and L. V. F. Randolph, Trustees, issued eleven hundred and ninety-nine mortgage bonds, for one thousand dollars each, which they delivered to me as Comptroller of the State of Tennessee, and they also delivered to me eleven hundred and ninety-nine bonds of the State of Tennessee; these State bonds were canceled by me, and filed in the Comptroller's office; the mortgage bonds were redelivered to the Trustees under
14 said mortgage after having been endorsed by me, on the face of each of said bonds, in the following words:

"State of Tennessee,
Comptroller's Office.

"I certify that the Chicago, St. Louis & New Orleans "Railroad Company has this day liquidated the indebt- "edness of the Mississippi Central Railroad Company to "the State of Tennessee for State bonds issued pursuant
15 "to law, under the statutes of the said State, to establish "internal improvements, and that this bond is substituted "for the same amount of indebtedness of the said railroad "company to the State, and the holder of the said bond "is hereby subrogated to and secured by the lien held by "said State, and to all the other rights and remedies re- "served by the State in the statutes upon the railroad "and property of the said Mississippi Central Railroad "Company. This bond is one of 1,199 bonds, and is ex- "ecuted and issued, and by virtue of law takes the place
16 "of a bond of the State of Tennessee, and is a First "Mortgage Bond.

"November 28, 1877.

"Jas. L. Gaines,
"*Comptroller of the State of Tennessee.*"

Q. 9. What State officers, if any, decided as to whether the State bonds presented by said Trustees or

the defendant, the C. St. L. & N. O. R. R. Co., to you in 17
payment of said debt, were the proper bonds to be so received under the Internal Improvement Acts of Tennessee?

A. By the Governor, Secretary of State, and myself as Comptroller, it was decided that said State bonds were the proper bonds to be received in payment of the said debt, of the Mississippi Central Railroad, and the bonds were so received.

Q. 10. What relation did the Mississippi Central
Railroad spoken of above, bear to the Mississippi Central 18
& Tennessee Railroad Company?

A. The railroad was known as the Mississippi Central & Tennessee Railroad, up to the year 1859, and after 1859, the same railroad was known as the Mississippi Central.

Q. 11. Did you, as Comptroller, execute and deliver a receipt for the amount of Tennessee bonds paid you as aforesaid, and in such receipt mention the $110,000 paid the State by the Tennessee Receiver; if so, file a true
copy of said receipt with this your deposition, making it 19
an exhibit thereto?

A. I did execute and deliver such receipt, and herewith file a correct copy of the same, marked Exhibit No. 1.

Q. 12. Did the Governor and Secretary of State execute and deliver an acquittance and assignment to said defendant, the Chicago, St. Louis & New Orleans R. R. Co., or its Trustees, of date 28th of November, 1877?

A. The Governor and Secretary of State did execute
and deliver an acquittance and assignment to said de- 20
fendant, the Chicago, St. Louis & New Orleans R. R. Co., or its Trustees, of date 28th November, 1877?

Q. 13. Do you know Peter Geddes of New York, member of Geddes & Smith, and also member of the "Committee of Tennessee Bondholders?"

A. I do.

Q. 14. Did you receive a letter from said Peter Geddes, 21 dated August 1st, 1877, and one of August 23d, 1877, and one of August 27th, 1877, and one of August 29th, 1877; if so, please fiel each of said letters, and make them part of this your deposition?

A. I did receive letters from the said Peter Geddes, of dates named, and herewith file copies of same, marked Exhibits Nos. 2, 3, 4 and 5 respectively.

Q. 15. In his letter aforesaid of August 1st, 1877, to you, as Comptrollor, he says:

"The parties in interest will be prepared to pay off the
22 "debts of the Mississippi Central to your State, just as "soon as it is safe for them to do so."

What did he mean by "debts of the Mississippi Central to your State," and who did he mean by "the parties in interest?"

A. By "debts of the Mississippi Central to your State" he meant the amount of bonds issued by the State in aid of said road under the Internal Improvement Acts; and by "the parties in interest" he meant the parties who proposed to purchase the road.

23 Q. 16. In Peter Geddes' letter to you of August 27th, 1877, he says: "I have just had an interview with Mr. "Osborn, who reports that in thirty days the parties in "whose interest the Mississippi Central was bought in "the other day will receive a confirmation of their pur-"chase. It is quite well understood here that so soon as "they can do so with safety they will pay off the lien of "the State of Tennessee on the Mississippi Central, and "*that* they now think they can safely pay it off sixty "days hence." Who is the Mr. Osborn referred to in
24 said letter?"

A. William H. Osborn is President of the Chicago, St. Louis & New Orleans Railroad Company, who executed the said mortgage of 8th November, 1877, as such President.

Q. 17. Is Peter Geddes, of whom you have spoken, the Peter Geddes who is a member of the "Committee of Tennessee Bondholders" of New York, of which Committee complainant was the Secretary in 1877?"

A. He is. 25

Q. 18. On the 28th November, 1877, when the State of Tennessee, through its officers, required the payment of $1,199,000 and interest from the purchasers of the Mississippi Central Railroad Company, how many of the bonds claimed to have been originally issued to said road or its predecessor, the Mississippi Central & Tennessee Railroad Company, were before that time paid and then in possession of the State canceled, and how many were then outstanding?

A. I cannot state positively the number of the bonds 26
outstanding November 28th, 1877, which had originally
been issued to the Mississippi Central Railroad Company,
but I am satisfied that at least half of them had
been paid in and canceled and deposited in the archives
of the State.

Q. 19. Do you know whether the holders of bonds of
the State of Tennessee funded their past due coupons and
past due bonds under the terms of the Funding Act of
1865; and if so, were the coupons of different series of
bonds, capitol, hermitage, agricultural bureau, turnpike 27
bonds and bonds issued in aid of railroads, kept separate,
or were they confused in the new bonds issued therefor?

A. From the number and amount of the bonds issued
under the Funding Act of 1865, I am satisfied that
nearly or quite all the past due interest on all the then
outstanding bonds of the State was funded, including the
coupons from all the series of bonds issued prior to the
war; the coupons from the bonds issued in aid of railroads
were not kept separate from the coupons of the
bonds issued for other purposes; as a matter of fact the 28
record of the funding transactions under the said Act of
November, 1865, does not show what particular coupons
were funded, but simply shows that so many coupons,
amounting to a certain sum, say $1,000, or the multiple of
$1,000, were funded into one bond or into as many
bonds as there were multiples of $1,000.

Q. 20. Please state, if you know, whether the holders

29 of all series of bonds of Tennessee accepted the provisions of the Funding Act of 1873, and funded their past due coupons and registered their bonds under said act?

A. They did.

Q. 21. Please examine the funding books and records of the office of Comptroller of Tennessee and state who had bonds 3623, 3734, 3748, 3826, 3879, 4630, 4652, 4745, 4840, 5511, each issued January 1st, 1856, except last bond, and that January 1st, 1857, registered under the Act of 1873 aforesaid, and the date when each was registerd? 30

A. Below I give a statement showing the date of registration of each of the several bonds mentioned, and for whom each bond was registered:

No. 3623 was registered March 24, 1874, for Miller & Franklin.
" 3734 " Nov. 20, 1873, " Jno. B. Manning.
" 3748 " Nov. 20, 1873, " Jno. B. Manning.
" 3826 " Dec. 18, 1873, " Newton White, Pulaski, Tenn.
" 3879 " Nov. 19, 1873, " First National Bank, Nashville, Tenn.
" 4630 " Dec. 19, 1874, " Carolina Life Insurance Company.
" 4652 " May 1, 1874, " Lord & Taylor.
" 4745 " April 1, 1874, " Whitehouse & Co.
" 4840 " Feb. 11, 1874, " First National Bank, Nashville, Tenn.
31 " 5511 " Jan. 13. 1874, " E. Goodwin, N. Y.

Q. 22. Were there not State bonds authorized and actually issued under several different acts passed at the session of the Tennessee Legislature of 1851–2?

A. There were two or more acts passed at the session of 1851–52 under which bonds were authorized to be issued, and were actually issued.

Q. 23. Please state the amounts of Tennessee bonds and coupons paid by railroads in settlement of their debts under the internal improvement system of Tennessee, 32 beginning with the payment by the Louisville & Nashville Railroad Company in 1865; I do not mean sinking fund and interest, but final settlement by railroads of the debt and lien claimed by the State; also the assessed values of property in Tennessee in January, 1852, and in 1860, and in 1867; and the amount of bonds of State outstanding in January, 1852; and whole bonded debt of the State prior to settlement with railroads?

A. Following is a statement of the names of the several railroads which retired their debts to the State of Tennessee, and amount of same, *exclusive of sinking fund and interest;* also the names of the several railroads that were sold by the State, and the amount brought by each: 33

RAILROADS THAT RETIRED THEIR DEBTS, AND THE AMOUNT OF SAME.

Louisville and Nashville, Nov. 17, 1865	$560,500.00	
East Tennessee, Virginia and Georgia, Aug. 1, 1870	3,916,315.00	34
Nashville and Decatur, March, 1871	2,465,176.00	
Memphis and Ohio, May 25, 1871	2,396,110.00	
Mobile and Ohio, Jan. 1, 1872	1,785,246.00	
Nashville and Chattanooga, Jan. 1, 1874	364,165.00	
Memphis and Charleston, July 25, 1877	1,671,916.25	
Mississippi Central, Nov. 28, 1877	1,199,180.00	
Mississippi and Tennessee, Jan. 16, 1878	299,714.00	

RAILROADS THAT WERE SOLD BY THE STATE, AND THE AMOUNT BROUGHT BY EACH. 35

Edgefield and Kentucky	$900,000	
Cincinnati, Cumberland Gap and Charleston	300,000	
Knoxville and Kentucky	350,000	
McMinnville and Manchester	300,000	
Winchester and Alabama	300,000	
Rogersville and Jefferson	23,000	
Nashville and Northwestern	2,400,000	
Knoxville and Charleston	105,000	26
East Tennessee and Western North Carolina	20,000	
Memphis, Clarksville and Louisville	1,700,000	
Tennessee and Pacific	300,000	

The assessed value of taxable property in the State of Tennessee:

For the year 1852, was.....................$177,420,305

(Including slaves valued at $63,027,716.)

37 For the year 1860, it was...............$388,936,794
(Including slaves $115,609,554); and
For the year 1867 the assessed value of the
taxable property of the State was.......$225,393,410
On the 1st of October, 1851, the total bond
liability of the State was...............$3,651,856.66

I have not at hand the official data for the exact amount of the outstanding liability on the 1st January, 1852.

In 1870, prior to the first settlement with railroads under the Act of 1869 and of 1870, the whole bond debt
38 of the State amounted to about $40,000,000.

Jas. L. Gaines.

The complainant's counsel does not desire to ask any questions, and it is agreed by counsel for complainant and defendant that Col. Gaines may file herewith copies of the letters of Peter Geddes instead of the originals, and that said copies may be used as if they were the
39 originals, and to have the same force; but, on request of either party, Col. Gaines agrees to produce said original letters, which he has on file in his office.

James Fentress,
Solicitor for Defendants.

S. Watson,
Solicitor for Complainants.

State of Tennessee, }
Davidson County. }

40 I, E. R. Campbell, Commissioner of the Circuit Court, U. S., for Middle District of Tennessee, do hereby certify that the foregoing deposition of James L. Gaines, of 19 pages, was taken before me as recited in the caption in presence of counsel for complainant and defendant, and that witness wrote his own answers, and the said deposition having been read over to said witness, he made oath in due form of law that the same was true.

In witness whereof, I have hereunto set my hand and 41
seal, this the 24th day of March, 1880.

E. R. Campbell,
Commissioner U. S. Circuit Court,
for the Middle District of Tennessee.

Exhibit No. 1.

State of Tennessee. } 42
Comptroller's Office. }

Receiver of the Chicago, St. Louis & New Orleans
Railroad Company by the hands of Adolphe Schreiber,
James Fentress and L. V. F. Randolph, Trustees, under
the first mortgage of said company, the sum of twelve
hundred and ninety-three thousand two hundred and
thirty dollars, in the bonds and coupons of the State of
Tennessee, which, together with one hundred and ten
thousand dollars in money, heretofore received from R.
P. Neely, Receiver, is in full payment and satisfaction 43
of all indebtedness of the Mississippi Central & Tennessee
Railroad Company to the State of Tennessee, and
also in full payment and satisfaction of all the indebtedness
of the Mississippi Central Railroad Company to the
State of Tennessee.

The sum of twenty-three thousand two hundred and
fifty-six dollars of the $110,000 paid in money as aforesaid,
is in full of taxes on said railroad, its property and
appurtenances, due said State of Tennessee for the years
1873, 1874, 1875, and 1876; and the sum of nine hundred 44
and thirty-two $\frac{73}{100}$ dollars, is in full of the State tax
on said railroad and property for the year 1877.

The payment of the taxes aforesaid, for each of said years is made under protest, the said company insisting that said railroad and property is and was exempt from said taxation, by virtue of the charter of the Mississippi Central & Tennessee Railroad Co., Acts of 1853–4 of

45 State of Tennessee, chapter 1, sec. 13, and it is agreed that the question as to whether such taxation aforesaid, is valid and legally collectable, or whether said railroad and property was exempt from taxation for said years or either of them (in case the Attorney-General of the State does not advise the refunding of said taxes) without litigation, shall be submitted to Chancellor Cooper, or the Chancery Court of Nashville, Tennessee, and if said railroad and property is held by said court to have been exempt for those years, or said taxes improperly assessed, 46 then the money paid for said taxes shall be refunded to said company, and the fact that said taxes have been paid, shall not put said company in any worse position in any litigation as to this matter than it would have been if said taxes had been refused to be paid, until the legal questions above mentioned were settled.

Jas. L. Gaines,
Comptroller of the State of Tennessee.

47 **Exhibit No. 2.**—J. L. G.

(Private.) New York, August 1st, 1877.

Hon. James L. Gaines.
Comptroller,
Nashville:

Dear Sr,—I think that I may now safely say to you confidentially that the parties in interest will be prepared to pay off the debts of the Mississippi Central to your State just as soon as it is safe for them to do so.

48 I was amused when I read in the American newspaper the other day the very brief notice of the payment of the debt of the Memphis and Charleston road to the State, which it published. A stranger would conclude that it was published solely to account for your being in New York, about which the public might be concerned—to assure the people of Tennessee that you were not here to pay of the State debt, or anything of that kind.

I have not yet heard from Mr. Smith, and am therefore 49 not able to indicate what view he may take of the conditions upon which Governor Porter says he will call an extra session of the Legislature. I have, however, not changed my own views as to what should be done, but I am more firmly convinced than ever that the proposition of the bondholders should be accepted, or one its equivalent, which I think might be gotten up, offering to settle at say 75 per cent. of principal and interest in 6 per cent. bonds, coupons receivable for all taxes and dues to the State. 50 If any hope were held out that a settlement can he effected at the equivalent of our proposition, say 75c., I would do my best to get all the principal bondholders to make a proposition to settle at that, and I think that with careful handling it could be carried. Of course there are always some who hold back, but I think that the great majority would take 75 per cent., under the name of the equivalent of their proposition already made.

The debts of the railroads to the State may now be regarded as practically settled. What remains is simply a question between debtor and creditor. 51

Freed from the complications which grew out of these railroad debts, the discussion of the debt question will be very clear and simple henceforward.

If a few of you men of influence and character would unite in an effort to bring about a compromise on the basis of 75 per cent., I think it could be effected satisfactorily to all, while it is very doubtful if an acquiesced in settlement at a lower figure would ever be regarded as other than a forced one by the public and the bondholders. 52

The intervention of the so-called arbiters of the Clearing House was the most unfortunate thing that could have happened.

Personally, I have worked hard to save the remnant of Tennessee's once good credit, and I make this last effort to complete the job. If it fails, let it be so. Posterity will ever regret a blunder made now.

53 If you think so advisable, you may convey to the Governor, at your convenience, the substance of what I have said, and let me know what he may have to say in reply.

Very truly yours,

P. Geddes,

P. O. Box 936.

Exhibit No. 3.—J. L. G.

54

New York, Aug. 23, 1877.

James L. Gaines, Esq.,

Comptroller:

Dear Sir,—I duly received your esteemed favor of the 8th current.

Since then I learned that the Mississippi & Tennessee Railroad Company have voted to pay off their debt to Tennessee. This practically settles up all advances made 55 by the State to railroad companies, and reduces the whole State debt question to one between the people of Tennessee and the investors in their public debt. What the latter will agree to I cannot say. They may or may not adhere to their proposition of last February.

If the people of Tennessee under any circumstances are liable to do anything disgraceful in regard to their public debt, or permit anything of that kind to be done, of which you seem to entertain fears, should a settlement not be come to this year, and the debt question become 56 one of the issues in the State canvass of next Summer, the inquiry forces itself upon the bondholders, of how much value would the reduced debt of such a people be to the holders of it?

This is a very serious question, in view of the fears you express, and of what I will now only characterize as the extraordinary legislation of last Winter. I shall be happy to hear from you in reply, at your convenience.

Mr. Smith has been travelling since the beginning of 57
July, and hence we do not hear from him.

I am,
Very truly yours,
P. Geddes,
P. O. Box 936.

Respondent's Exhibit No. 4,—J. L. G. 58

(Private.) New York, August 27, 1877.

Hon. James L. Gaines,
Nashville:

My Dear Sir—I have just had an interview with Mr. Osborn, who reports that in thirty days the parties in whose interest the Mississippi Central was bought in the other day will receive a confirmation of their purchase. It is quite well understood here that so soon as they can
do so with safety, they will pay off the lien of Tennessee 59
on the Miss. Central, and that they now think they can safely pay it off sixty days hence.

There is thus little doubt that the last of Tennessee's advances to the railroads within her borders will be paid off early in the fall, thus freeing her and her creditors too, for that matter, from a very troublesome disorder.

Although you do not, in your note of the 8th current, give much reason to hope that a settlement of Tennessee's debt on any other than the Coe Committee's plan is
now practicable, I still cling to the belief that the honest 60
citizens of Tennessee who must be still in the majority, would much prefer to pay the State debt in *full*, if some plan were submitted which would make it clearly possible for them to do so.

The outstanding bonds of Tennessee are mainly held by investors, by trustees, and Trust Institutions. The "margins" of speculators in and out of Wall Street have

61 long ago disappeared, and the bonds upon which they were held been sold.

Now, investors, and parties, and institutions holding in trust, prefer much any reasonable reduction of the rate of interest their investments will produce, to a reduction of the principal.

For the past four years they have been receiving lower rates of interest and smaller dividends on their investments than they had been accustomed to. Many of them, judging by the large subscriptions to government four
62 per cents. recently, have come apparently to the conclusion that lower rates of interest than formerly prevailed will hereafter permanently prevail. This is the mood in which they now appear to me to be, and it has suggested the idea that advantage might possibly be taken of so favorable a time and circumstances by the friends of Tennessee to bring about a compromise of the rate of interest on her debt which would enable her with ease to pay it all off.

I will not discuss her ability to pay her debt, but will
63 assume it and pass on to my suggestion, which is as follows:

The State to issue new bonds for the principal and past due interest of her existing bonds, to bear interest at 4 (four) per cent. per annum, payable semi-annually, January 1 and July 1, in each year, coupons to be attached to the bonds representing each payment of interest, to be receivable by the State for all taxes and dues to the State and to be free from taxation of any kind in the State. The bonds themselves to be payable fifty or one hundred
64 years hence, and redeemable by the State at any time after six months' notice that the State is prepared to pay them.

The bondholders of Tennessee may object to making such a proposition of compromise; but if I get from you and the Governor encouragement that, if such a proposition were made by the holders of more than half the debt, it would be accepted, I will exert myself, with Mr

George Smith and other well known large holders, to make it. 65

Firmly convinced as I am that a settlement in full, if by any possibility it can be accomplished, will be of immense present and future advantage to Tennessee and Tennesseeans, I hope that you will induce Governor Porter and the other friends of State credit to give my suggestion careful consideration.

I do not dare to mention it to any one yet, but will set the wheels in motion if hope of acceptance is held out, and will, if necessary, go to Nashville for the purpose of an interview with the Governor and yourself. 66

If the friends of Tennessee in Tennessee will extend to her a helping hand, I think that she can still be restored and her honest pride saved.

Let me hear from you on receipt, and write further afterward.

Truly yours,

P. GEDDES.

67

Exhibit No. 5.—J. L. G.

NEW YORK, Aug. 29, 1877.

HON. JAMES L. GAINES,
Nashville, Tenn.:

My Dear Sir.—I thank you for your favor of 25th current, and for the information and suggestion therein communicated.

Seeing by the morning papers that the Governors were to meet yesterday at the Continental Hotel, Philadelphia, 68 I telegraphed to Governor Porter there, asking him where a letter would reach him to-day, and after hearing from him wrote him with a copy of my last letter to you, asking him to let me have the benefit of his views thereon in advance of his arrival here, and saying that if agreeable to him I would with pleasure call upon him when he comes to New York.

69 In case Tennessee wants to pay off her debt, it will be of great advantage to her to arrange for a low rate of interest on it. Bonds bearing a low rate of interest can be with greater ease, or at lower cost, bought for a sinking fund than can bonds bearing full rates.

This is a point I had in view when we made our proposition of compromise, and one which I hope will have some weight yet with you.

Yours truly,

70 P. GEDDES.

71

72

Deposition of Charles J. McKinney.

THE UNITED STATES OF AMERICA, } ss.: 1
Eastern District of Tennessee. }

Be it remembered that on the 1st day of September, 1879, before me, Clerk of the United States Circuit Court for the Eastern District of Tennessee, at my office in the City of Knoxville, within said District, and the Sixth Circuit, was produced and personally came Charles J. McKinney, witness on the part and behalf of the defendants in a certain suit now depending and undetermined in 2 the Circuit Court of the United States for the Eastern District of Tennessee, wherein Calvin Amory Stevens, *et al.*, on behalf of the holders of bonds issued to the East Tennessee & Virginia R. R. Company, are complainants, and East Tennessee, Virginia and Georgia R. R. Co. are defendants, to depose and the truth to say in said suit.

And thereupon the said Charles J. McKinney, being of lawful age and sound mind, being by me first cautioned and sworn to testify the truth, the whole truth, and 3 nothing but the truth, touching the matters in controversy in said suit, did, in answer to the interrogatories and cross-interrogatories propounded to him, depose and say as follows:

I am 66 years old; my residence is Rogersville, E. Tennessee, where I have lived all my life; I have been a farmer for several years; I was a director of "The Rogersville and Jefferson Railroad Co." for many years before and up to the war, and when the railroad passed 4 into the hands of the State, in the year 186 , I was appointed State Receiver and received from the State, as a loan to this road, under the General Improvement Act of 1852, and several subsequent amendments, thirty thousand dollars in coupon bonds of the State of Tennessee, which I sent to , brokers and bankers, New York City, to sell for me. I gave them no instruc-

5 tions to represent these bonds as guaranteed or secured to
the purchasers by any lien or mortgage on the railroad or
its property, but simply instructed them to sell as Tennessee
State Bonds. They did sell twenty-five (25) of
them, and I appropriated the proceeds to the completion
of the road and the injuries produced by the war. The
remaining five (5) I returned to the State. While I was
a director the Company received in the same way something
near two hundred and fifty thousand of the same
6 class of bonds from the State, which were disposed of in
the same way, without any representations of any lien in
favor of the bondholder. These bonds were all payable to
blank or bearer, and were not endorsed by the Company.

We kept no account of the numbers of the bonds, and
had no system of marking or endorsing to identify the
bonds of the State loaned to us. In paying the semiannual
interest to the State, we paid it either in money or
in money and coupons then due, and did not attempt, nor
7 were we required to procure the coupons attached to the
bonds loaned to us, with which to make payment of the
interest. We just took a receipt for so much interest paid
to the State.

After the war the Company was in default for the interest
due the State for several years, and that was the
reason the State took possession of the road, and neither
during the period of such default, nor since, have I ever
heard or known of a bondholder presenting to or demanding
8 payment of a coupon from our Company, and I am
sure I would have heard of it if such a thing had ever
happened.

I am not connected with or interested in any of the railroads of Tennessee, or their stocks, or securities, and further sayeth not.

CHAS. J. McKINNEY.

UNITED STATES OF AMERICA, }
Eastern District of Tennessee. } ss.:

I, A. R. HUMES, Clerk of the United States Circuit Court for said District, do hereby certify that the foregoing deposition of Charles J. McKinney was taken by and before me, as stated in the caption thereof, on the first day of September, 1879, and was, when taken, reduced to writing by me, in the presence of said witness, and was by said witness subscribed in writing in my presence. 9

I further certify that the reason for taking the foregoing deposition is, and the fact is that the said witness lives, and at the time of taking said deposition did live, in Rogersville, Tennessee, the same being at a greater distance than &c., &c., &c., from &c., &c., &c., where the said Circuit Court for the United States for the Eastern District of Tennessee is held, and where the said cause mentioned in the caption is to be tried. 10

I further certify that I am not of counsel or attorney for either of the parties to the said suit in said deposition and caption named, or interested in the event of said cause, &c., &c., &c. 11

In testimony whereof I hereunto set my hand and official seal, this first day of September, 1879.

[SEAL.]

A. R. HUMES,
Clerk.

12

1

Deposition of Perez Dickinson.

Eastern District of Tennessee.

Be it remembered that on the 27th day of September, 1879, before me, A. R. Humes, Clerk of the United States Circuit Court, for the Eastern District of Tennessee, at my office in the City of Knoxville, within said District, and the Sixth Circuit, was produced and personally came Perez Dickinson, witness on the part and behalf of the defendants in 2 a certain suit now pending and undetermined in the Circuit Court of the United States for the Western District of Tennessee, wherein Calvin Amory Stevens, *et al.*, on behalf of the holders of Internal Improvement bonds of Tennessee, issued to the Memphis & Charleston R. R. Co. are complainants, and the Memphis & Charleston Railroad Company and the East Tennessee, Virginia & Georgia Railroad Company are defendants, to depose and the truth to say in said suit. 3

And thereupon the said Perez Dickinson, being of lawful age and sound mind, being by me first cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, touching the matters in controversy in said suit, did, in answer to the interrogatories and cross interrogatories propounded to him, depose and say as follows:

I have been a resident citizen and merchant of Knoxville, Tennessee, for more than forty years.

4 On the reorganization of the East Tennessee and Virginia Railroad in 1865 or 1866, after the war, I

became, at the request of the then President, John R. Branner, a Director, and was associated with him for several years up to 1869 or 1870, in the effort to rehabilitate the road and put it into successful operation as a common carrier. We were frequently annoyed by the legislation of the State; and to obviate this difficulty and obstacle to the successful management and operations of the East Tennessee and Virginia Railroad Company, I advised Mr. Branner, as President of said Road, prior to the passage of the Acts of 1869 and of 1870, to originate some plan and to adopt some measure by which we could get rid of all obligations and liability to the State, and become entirely independent of the State's assumed control in appointing directors, and other vexatious legislation, and to rid ourselves of our obligations to the State by purchasing in and paying over our liabilities to the State, and thus secure a wiser and more successful management and conduct of the railroad as a common carrier.

And further sayeth not.

PEREZ DICKINSON.

DEPOSITION OF ADRIAN ISELIN.

CIRCUIT COURT OF THE UNITED STATES, 1

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of internal improvement Bonds of Tennessee, issued to the MEMPHIS & CHARLESTON RAILROAD COMPANY,

vs. 2

THE MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.*

Testimony and proofs for final hearing taken on the part of the respondents in the above-entitled suit, under and pursuant to the 67th Rule in 3 Equity, as amended, before William H. De Lancey, Special Examiner, duly appointed herein.

NEW YORK, February 14, 1880.

Present.—Mr. W. Y. C. HUMES,
For Respondents. 4
MR. E. L. ANDREWS.
For Complainants.

5 **Adrian Iselin**, a witness produced on the part
of the respondents in the above-entitled suit, being
first duly cautioned and sworn therein, deposes and
says:

(Deposition taken subject to all legal objections of both parties.)

Direct examination by **Mr. Humes**:

1 Q. Please state your name, firm name, residence
6 and occupation, and how long you have resided
where you do now, and done business there?

A. Adrian Iselin, of full age. I am a partner in the house of A. Iselin & Co., in liquidation, and partner in the house of Iselin, Neeser & Co. My residence is in the city of the New York and has been nearly all my life. I was born in the city. My business has always been that of a banker and commission merchant.

2 Q. Did you or not, as a banker, negotiate and
7 buy the substitution bonds of the East Tennessee,
Virginia and Georgia Railroad Company, and if yea
at what time?

A. I did buy them. I bought $500,000 on 1 July, 1870; $500,000 between the 25th and 28th of July, 1870; $200,000 on the 25th March, 1871, and $840,000 in April, 1871, between the 3d and the 25th of April.

3 Q. Were you before the dates of these purchases
or within the period embraced by them, a president,
director, or stockholder in said company, or occu-
8 pying any fiduciary or confidential relation to this
company?

A. I was not at the time of the purchases made in 1870; but I am not certain whether I held any stock or not in the company before the purchases made in 1871. I had no connection with the company at all before the first purchases.

4 Q. What did you give for these bonds, and did you or not consider it the fair value at the time?

A. I paid 82½ per cent for the bonds and accrued 9
interest. I considered it the full and fair value at the time. I paid this amount in money at the time, without any deduction whatever.

5 Q. Were you or not aware at the time you made these purchases that the holders of State bonds of Tennessee, held a large amount of interest coupons overdue and unpaid by the State—that they had funded some of them under the act of 1865, and had never set up any claim of an obligation in respect of them against the railroad companies to whom 10
they were issued, or a lien on the same.

A. I was aware that a large amount of interest coupons on Tennessee State bonds remained unpaid. That a portion of these coupons had been funded previously into new State bonds, and I was not aware that any holder of Tennessee State bonds had brought forward any claim that their bonds were secured by a lien on the railroads to which they had been issued.

6 Q. Did you have anything to do with the negotiation of or did you purchase any of the substitu- 11
tion bonds issued by the Mobile and Ohio Railroad Company; if yea, please state the facts?

A. I purchased the Tennessee substitution bonds of the Mobile and Ohio Railroad in conjunction with R. T. Wilson & Co. and Duncan, Sherman & Co. Some bankers in Europe were interested in the purchase made in the name of my house. These purchases were made in December, 1871, at 85 and accrued interest. We paid for them in money.

7 Q. At the time that these purchases were made 12
was your knowledge and information the same or different touching the holders of State bonds and overdue coupons, and the absence of any claims by them of obligation against or lien upon the railroads as it was when you purchased the substitution bonds of the East Tennessee, Virginia and Georgia Railroad.

13 A. It was the same.

8 Q. Before you purchased the East Tennessee, Virginia and Georgia Railroad Company substitution bonds did you know of their being offered for sale elsewhere?

A. I knew that the East Tennessee, Virginia and
Georgia substitution bonds were offered to the New
York Guaranty and Indemnity Co. before they were
offered to me, and my first knowledge of these bonds
was derived from a discussion in relation to them at
14 the board of trustees of the above company, of which
I was a member.

9 Q. Did you or not by and with the consent of the Memphis and Charleston R. R. Co. purchase from the State of Tennessee, and take an assignment of the lien of the State on the property of said company for the debt due from said company to the State in respect of the State bonds lent by the State to said company; if yea, please give the date?

15 A. I did so purchase the lien which the State of Tennessee held on a portion of the Memphis and Charleston R. R. for the bonds issued by the State to this corporation. This was in the last days of July or beginning of August, 1877.

10 Q. Please state what facts, if any, existed within your knowledge or information, touching the interest coupons of the State bonds of Tennessee from 1865 to July, 1877?

A. I know that during this period the coupons of
16 the State remained unpaid, except after they had been
funded in the new bonds, when I believe three coupons were paid.

11 Q. During this period, from 1865 to July, 1877, did the holders of any coupons of Tennessee bonds claim or demand payment of the same, by legal proceeding or otherwise, from any railroad company in the State of Tennessee?

A. I never heard that any such claim was made. 17

12 Q. Do you not now know, and did you not also know in July, 1877, that all the overdue coupons on Tennessee bonds had been funded by the holders thereof, and their bonds registered under the funding act of Tennessee of March, 1873?

A. I do not know whether the coupons on every one of the Tennessee State bonds were so funded, but I do know that all, except a very small number, were so funded, as no bond which had not been re-

On or about the twenty-fifth day of July, 1877, my firm of A. Iselin & Co., consisting of myself and my son, Adrian Iselin, Jr., delivered to the State of Tennessee, Tennessee State bonds and coupons to the amount of $1,736,920 in payment for the assignment to us of the lien of the State upon so much of the Memphis & Charleston Railroad as was situated in the State of Tennessee, which lien was transferred to us by the assignment executed by James D. Porter, Governor of Tennessee, bearing date the 25th day of July, 1877, a copy of which is annexed to my deposition in this case.

Mr. Peter Geddes at my own office, and was present at numerous conversations which took place at the office of R. T. Wilson & Co. on the subject of paying off the debt of the Memphis and Charleston R. R. Co. due the State of Tennessee. In these conversations Mr. Geddes urged Mr. Wilson, as President of the Memphis and Charleston R. R., to pay off this debt with as little delay as possible, as the Governor of the State of Tennessee had told him—Mr. Geddes—that it would very much facilitate the 20

21 settlement of the State debt if its amount had been
reduced to the lowest possible point by the railroads
who were able to do so paying off the debts they
owed the State. Mr. Wilson repeatedly stated to
Mr. Geddes that he was perfectly willing and even
anxious to pay off the debt due by the Memphis
and Charleston R. R. if he could procure the State
bonds necessary to do it with, and as few of
these State bonds were offered at the time in the
market, Mr. Wilson asked Mr. Geddes whether
22 he would not loan him the Tennessee State bonds
he controlled so as to be able to pay off the debt
due by the Memphis and Charleston R. R. to the
State. This, however, Mr. Geddes refused to do,
saying, I believe, that he had no authority for dis-
posing of bonds in that way. In the conversations
which I had with Mr. Geddes at my office, Mr.
Geddes urged me to make Mr. Wilson pay off the
Memphis and Charleston R. R. debt to the State
of Tennessee with as little delay as possible, urging
23 the same arguments as in the conversations held at
Wilson's office.

Adjourned till further notice.

---

52 Broadway, February 16, 1880.

Direct-examination resumed :

15 Q. When did the conversations that you have
24 related as occurring between Mr. Geddes, Mr. Wil-
son and also yourself, occur ?

A. As far as I recollect they occurred in the spring of 1877, whilst the question of the Memphis and Charleston R. R. Company paying off the State lien was being discussed by Mr. Wilson and myself and some other parties interested in the Memphis and Charleston R. R.

16 Q. Will you please exhibit with this your deposition copies of the evidences of your purchase of the State lien on the Memphis and Charleston R. R. and the contracts with the company in settlement thereof. 25

A. I have not those documents with me, but will produce them and file them with this deposition.

17 Q. If you have refreshed your memory, please state accurately when you became officially connected with the East Tennessee, Virginia and Georgia R. R. Co.? 26

A. I became director of that company in September, 1874, and stockholder in December, 1873.

Cross-examined by E. L. Andrews, Esq., for complainant:

18 x Q. Have you ever heard of the opinion of Judges Davies and Davis to the effect that the Tennessee bonds issued to railroads, constituted liens thereon. 27

A. Yes, I did.

19 x Q. Was it not in the year 1870, and about the time of negotiations with Lombard, Odier & Co., of Geneva, for the sale of East Tennessee, Virginia and Georgia R. R. Co. substitution bonds that you heard of that opinion?

A. Yes, it was. The opinion was shown to me by Mr. Odier.

20 x Q. Were you not in some way connected, and if so, how, with the obtaining of the opinion of Charles Tracy, Esq., of the New York bar, in reference to the matter stated in the foregoing question? 28

A. I was no further connected with obtaining that opinion, except that I told Mr. Odier if the opinion of Davies and Davis gave him the least

29 anxiety, he had best have the opinion of some law-
yer, selected by himself, on the subject; he said he
had known Mr. Tracy in Europe; he would go to
him; I personally did not come in contact with Mr.
Tracy at that time.

21 x Q. How about any subsequent time?

A. I am not certain, but believe that I did come
in contact with Mr. Tracy in relation to the opinion
he gave later about the legality of preserving the
lien which the State of Tennessee held on the Mo-
30 bile and Ohio R. R. Co., after it had been paid;
after the debt to the State had been paid.

22 x Q. Did you not consult any other counsel in relation to any of these matters at or about any of those times?

A. I consulted personally no counsel at the time
I bought the East Tennessee, Virginia and Georgia
R. R. substitution bonds, but read over the opinions
handed me by Mr. R. T. Wilson of lawyers in Tennes-
see; one of them was named Baxter. The time the
31 Mobile and Ohio R. R., the consultations with law-
yers, concerning the legality of substituting railroad
bonds for the State lien, and the way of doing it,
were carried on principally by Mr. R. T. Wilson and
William B. Duncan, and with the exception of Mr.
Charles Tracy, I do not recollect having asked the
advice personally of any counsel. One of the law-
yers with whom Mr. Wilson consulted was Mr.
Charles F. Southmayd.

23 x Q. Were you not a director of the Galla-
32 tin National Bank, and if so about what time?

A. I was a director of the Gallatin National Bank for about thirty years, from 1846 to 1876.

24 x Q. Did not the Gallatin National Bank offer Nashville & Decatur substitution bonds for sale?

A. Yes, sir; and also East Tennessee, Virginia & Georgia Railroad bonds.

25 x Q. Was not the opinion of Charles Tracy

printed and published in some of the prospectuses 33 of the sale of substitution bonds by the Gallatin Bank?

A. One of the opinions of Charles Tracy was printed in pamphlet form, but was not circulated either here or in Europe.

26 x Q. Why did you not publish, if you did not, or notify intending purchasers of the substitution bonds in America or Europe of the opinion of Davies and Davis, the former having been a Chief-Justice of the State of New York? 34

A. Because as long as the parties to whom this opinion was addressed and in whose interest it was apparently written did not act upon it, it was a proof that they themselves considered this opinion unsound, and did not consider they could maintain any claim against the railroads for the bonds they held from the State of Tennessee. The parties in whose interest this opinion had been written having attached no importance to it I did so neither.

27 x Q. The opinion shown to you of Davies & 35 Davis, was it not printed?

A. It was printed.

28 x Q. Had you not negotiated for Tennessee substitution bonds about seven years before your conversation with Mr. Geddes as testified by you?

A. Yes, I had.

29 x Q. Were you not one of the complainants in the suit of Adrian Iselin and others versus the Mobile & Ohio Railroad Company and others in the United States Circuit Court for the Western District of Tennessee, pending therein during the year 36 1877?

A. Yes, sir.

30 x Q. Were you not present upon the hearing of the appeal of that case, in the Supreme Court of the United States?

A. Yes, I was.

37 31 x Q. Were you not aware that the Supreme
Court of the United States took the case under advisement,
and so held it after its adjournment for
the summer recess of 1878?

(Objected to as wholly irrelevant and incompetent.)

A. I know that some time passed before the Supreme Court gave any decision upon that case.

32 x Q. Had not an effort been made pending
38 this suit to have the substitution bonds of the
Memphis & Charleston Railroad placed on the Stock
Exchange?

A. I do not know.

33 x Q. At what prices did you sell the East Tennessee, Virginia & Georgia, the Mobile & Ohio and the Memphis & Charleston substitution bonds if the latter have been sold?

A. The latter were bought by us and other parties,
and to my knowledge none of them have been
39 resold, at least we hold all the bonds we purchased.
I refuse to answer what price Mobile & Ohio & East
Tennessee, Virginia & Georgia bonds were sold by
me, because it is a matter which only concerns me
personally.

34 x Q. Have not the new first mortgage bonds and debentures of the Mobile & Ohio Railroad been placed on the New York Stock Exchange, and were you not at that time a holder of those securities?

A. Those bonds were placed on the New York
40 Stock Exchange, and I was a holder at that time.

35 x Q. Did you not state to Mr. Peter Geddes that one of the directors of the Memphis & Charleston Railroad, Mr. Cossitt, opposed the purchase of Tennessee bonds to deliver to the State, on the ground that the company would get them cheaper after a time, or words to that effect?

A. I do not recollect whether I stated this to Mr.

Geddes. I do recollect that Mr. Cossitt frequently 41
expressed the opinion to Mr. Wilson when I was present that he ought to be in no hurry to buy the Tennessee State bonds as they would probably go lower.

36 x Q. Have you not been a holder or representative of holders of Tennessee State bonds; if so, please state details?

A. We have always, at least for the last fifteen or twenty years, been representative of Tennessee
State bonds, and we have been owners of them at 42
different periods. In the year 1866 we bought for our account seventy-six thousand dollars Tennessee State bonds and sold eighteen of them. In the year 1868 we bought ten thousand dollars and sold sixty-eight, leaving us without any on hand. In 1869 we neither bought nor sold any Tennessee State bonds for our account. In 1870 we bought seventy-five thousand dollars and we sold them the same year. In 1871 we bought $17,000, and we sold them the
same year. We owned no bonds up to 1874 since 43
that time. In 1874 we bought thirty-two thousand dollars and we sold them. The next purchase we made of Tennessee bonds was in 1877, when we bought one million six hundred and forty-eight thousand dollars, which we paid over to the State for the lien it held against the Memphis & Charleston Railroad, and in 1878 we bought thirty-two thousand dollars in bonds, and sold them the same year. Since that we have bought no Tennessee bonds. 44

Adjourned to February 18, 1880.

45 February 18, 1880.

Cross-examination resumed by E. L. ANDREWS, Esq., for complainants.

37 x Q. Have you not looked at any of the comptroller's reports of the State of Tennessee.

A. I have seen some of them.

33 x Q. Have you not seen some that contained the list of the numbers and descriptions of State bonds issued to each Railroad Company?

46 A. I have seen some stating the amount of bonds issued by the State to the different railroads, but do not recollect having seen the lists of the numbers of these bonds; I saw the Comptroller's report of 1875.

39 x Q. Have you not seen Pennybacker's sheet of Tennessee bonds?

A. I do not recollect of having seen it.

40 x Q. Did Lombard, Odier & Co., or any firm
in Europe that sold the substitution bonds, publish
47 any of the legal opinions that have been referred to
in your examination?

A. Not to my knowledge.

41 x Q. Please name the Tennessee substitution mortgages of which you are Trustee?

A. East Tennessee, Virginia & Georgia R.R., Nashville, Chattanooga & St. Louis; I don't recollect whether I am Trustee on the Nashville & Decatur; I was on the Mobile & Ohio.

42 x Q. Did not you or your firm hold by assign-
48 ment the lien of the State of Tennessee on the Mem-
phis & Charleston Railroad?

A. In answer I produce all the contracts and arrangements which I or my firm had in connection with the Memphis & Charleston Railroad, and herewith file the same and make it a part of my deposition as Respondents' Exhibit No. 1, W. H. D. L., Spl. Exr., & Respondent's Exhibit No. 2, W. H. D. L., Spl. Exr.

(Plaintiff's counsel moves to strike out the 49
answer and exhibits as irresponsive to the question.)

43 x Q. When did you become a director of the Mobile & Ohio Railroad Co., or any member of your firm?

A. One of my sons, Mr. Adrian Iselin, Jr., has been a director of the Mobile & Ohio Railroad for some time, but do not recollect for how long, but not before 1878. I am a director of the Knoxville 50
& Ohio Railroad; became such in 1877; I have been a director in the Nashville, Chattanooga & St. Louis Railroad, but am not now.

Re-direct examination by Mr. Humes:

44 Q. When did you first learn that any holder of bonds of the State of Tennessee was setting up a claim that the lien reserved to the State belonged to and was intended to secure the payment of the State bonds issued to the railroad? 51

A. In the fall of 1877.

45 Was it before or after your firm had purchased the Memphis & Charleston lien?

A. After.

46 Q. When was the Mobile & Ohio case argued in the Supreme Court of the United States?

A. In the spring of 1878.

47 Q. Was not the appearance of their counsel in the Supreme Court on that argument the first attempt on the part of holders of bonds of Tennessee 52
to gain admittance into that suit and assert their claim to the lien?

A. As far as I know it was.

48 Q. What has been the effect of the holders of Tennessee bonds legally asserting by these suits their claim to the lien, on the substitution bonds or negotiability in the market?

53 A. It prevented the marketing of the bonds which
had not already been distributed. I refer to the
Memphis & Charleston Railroad substitution bonds
which we bought with the intention of reselling,
but when it became known that some of the holders
of Tennessee State bonds intended to assert or pros-
ecute a claim against the railroads to whom these
bonds were issued, it became impossible for us to
sell those bonds, and within a short time Messrs.
Drexel, Morgan & Co. offered the mortgage bonds of
54 the Evansville, Henderson & Nashville Railroad, but
notified the public that $800,000 of the bonds being
the proportion on the road in the State of Tennessee
would not be sold until the suits commenced against
the railroads had been settled. The commencement
of these suits had also the effect of preventing, till
within a short time, any rise in the substitution
bonds which had already been distributed, similar to
what took place in all other kind of securities. The
holders of these bonds in Europe sent back a great
55 many of these bonds and there were sales of East
Tennessee, Virginia & Georgia substitution bonds as
low as 96; whilst railroad bonds considered good
were selling at a heavy premium. Since the first of
January, however, these bonds are scarce in the
market and have advanced in price. Nevertheless,
no quantity of them could be sold at prices corres-
ponding with those of other railroad bonds.

49 Q. You stated in answer to cross interrogatory
36 that you were the purchaser and seller of the
56 bonds therein stated, how were they bought and
sold?

A. They were all bought and sold in the Stock Exchange.

50 Q. What were the classifications of Tennessee State Bonds, before the New York Stock Exchange from 1865 to 1877?

A. Old Tennessee State bonds and new.

51 Q. Was there any such distinction pointing to the railroads to which they were issued? 57

A. No, there was no distinction of any kind between the bonds except that between old bonds and new, and no difference in price of old bonds.

Re-cross:

52 x Q. Have you not purchased substitution bonds of Tennessee railroads on your own account or others during the years 1879 and '80?

A. I don't believe we have bought any for our 58 own account, and whatever we may have bought for account of other parties was on specific orders given to us to buy the bonds. We bought none of such bonds for other parties when the nature of the investment to be made was left to our discretion.

---

52 Broadway, New York, 59
February 20th, 1880.

Present—Counsel as before.

Re-direct:

53 Q. Had this suit been brought before the sale and purchase of the substitution bonds, what effect would it have on this sale and responsibility?

A. I myself would have had nothing to do with the bonds. 60

Re-cross:

54 x Q. Did you sell any substitution bonds?

A. Yes, I did.

55 x Q. How many?

A. I cannot say how many but quite a considerable amount which were sent back to us from Europe, 61 and also some Nashville, Chattanooga & Saint Louis bonds which we owned.

ADRIAN ISELIN.

Subscribed and sworn to
before me, this 20th
day of February, 1880.

WILLIAM H. DELANCEY,
Special Examiner.

62 I, WILLIAM H. DELANCEY, Special Examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the above-entitled suit, in the city of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at my office, No. 52 Broadway, in the city of New York, by the counsel and witness aforesaid. That the said witness was duly cautioned and sworn in
63 above-entitled suit and examined, and the deposition was reduced to writing, and read to the witness, and by him subscribed in my presence, and that the Exhibits hereto annexed, marked "Respondent's Exhibit No. 1. W. H. D. L., Special Examiner" and "Respondent's Exhibit No. 2 W. H. D. L., Special Examiner," were introduced in evidence in said cause during the taking of said deposition.

Dated February 18th, 1880.

64 WILLIAM H. DELANCEY,
Special Examiner.

65

RESPONDENTS' EXHIBIT No. 1.

W. H. D. L., Spl. Exr.

An Indenture, made the twentieth day of
August, eighteen hundred and seventy-seven, between
the Memphis and Charleston Railroad Company,
a corporation duly created and organized by
and under the laws of the respective States of Tennessee
and Alabama and Mississippi, party of the
first part, and the Farmers Loan and Trust Company, 66
a corporation created by the laws of the State
of New York, and located in the city of New York,
party of the second part.

Whereas, the said party of the first part now
possesses, owns, and is operating its main line of
railroad, extending from Memphis, in the State of
Tennessee, via Corinth, in the State of Mississippi,
and Huntsville, in the State of Alabama, to Stevenson,
in the State of Alabama, a distance of two
hundred and seventy-two miles or thereabouts, 67
together with a branch thereof in the State of
Tennessee, known as the Somerville and Moscow
branch, extending from Moscow, on the main line
to Somerville, a distance of about fourteen miles,
and the branch thereof in the State of Alabama, extending
from Tuscumbia, on the main line to Florence,
a distance of about five miles; and also the
Washington street branch, so called, extending
from the Memphis and Charleston Railroad depot,
in the city of Memphis, through Washington street 68
and Center Landing, to the Mississippi river, a distance
of about one mile; and also certain rights and
privileges for transportation of its passengers and
freight in its own cars over the railroad running
between Stevenson, in Alabama, and Chattanooga,
in Tennessee, under and in virtue of a certain contract,
of June twenty-third and July twenty-sixth,

69 eighteen hundred and fifty-eight, made between
the said Memphis and Charleston Railroad Company;
and the said party of the first part also owns
and possesses the rolling stock, or equipment and machinery
for the operation of its said railroad and
branches; and also the depots and grounds and
buildings and other appurtenances of and for
uses and purposes of its said railroad and branches,
and other real estate situate upon and along the
line of its road, and the other things hereinafter
70 described and mortgaged.

And Whereas, all those parts of the said railroad,
as well branch as main line, which are situate
in the State of Tennessee, with the lands and premises
thereunto appertaining, embracing all the real
estate of the said party of the first part, situate in
the State of Tennessee, with the improvements
thereon, and the rolling stock or equipment, and
other appurtenances thereof, are subject to a first
71 and paramount statutory lien, in the nature of a
mortgage, originally created and existing in favor
of certain Tennessee State Bonds, loaned, or advanced,
or delivered to, or in aid of said railroad
company, by the State of Tennessee, under and in
pursuance of the General Internal Improvement
Laws of that State, and for or in respect of the
amount of principal and interest, of which State
bonds, thus loaned, advanced or delivered the said
the Memphis and Charleston Railroad Company
72 became indebted to the State of Tennesse, and
which indebtedness of said railroad company to
said State, and the lien held by the said State therefor,
have been recently, with the consent and approbation
of the said the Memphis and Charleston
Railroad Company, and of its Board of Directors,
duly assigned and transferred by said State to and
are now held and owned by Adrian Iselin and

Adrian Iselin, Junior, composing the firm of A. Iselin & Co., of the city of New York, in the like position and with the like rights to enforce the same, as the said State had, which assignment and transfer was made and effected under and in pursuance of the Act of the Legislature of the State of Tennessee, entitled "An Act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee," passed February 25th, 1869, and the other laws of said State in that behalf, 73
and the amount of such indebtedness of said party 74
of the first part, and of the attendant lien therefor upon its said railroad and other property, in the State of Tennessee, thus assigned to and now held by said Adrian Iselin and Adrian Iselin, Junior, including the interest accrued thereon to the first day of July, eighteen hundred and seventy-seven, is seventeen hundred and thirty-six thousand nine hundred and six dollars and twenty-five cents, and the principal thereof bears interest from the said
first day of July, eighteen hundred and seventy- 75
seven, at the rate of six per cent. per annum.

AND WHEREAS there are now outstanding and unpaid, as debts of the said party of the first part, twelve hundred and ninety-three thousand dollars in amount of the so-called first mortgage bonds of the said The Memphis and Charleston Railroad Company, issued under and secured by said Company's so-called first mortgage or deed of trust, dated May first, eighteen hundred and forty-four, to
James Punnett, G. B. Lamar and Thomas Fearn, as 76
trustees, covering the said Railroad Company's line of railroad, situated in the States of Alabama and Mississippi respectively, with the appurtenances and equipment thereof, as a first mortgage lien thereon, and likewise covering the said Railroad Company's line of railroad in the State of Tennessee, with the appurtenances and equipments thereof,

77 subject and subsequently to the prior and paramount lien and encumbrance thereon of the above-
mentioned debt and lien originally existing in favor
of the State of Tennessee, and now held by Adrian
Iselin and Adrian Iselin, junior, the principal of the
said so-called first mortgage bonds, for twelve hundred and ninety-three thousand dollars, falling due
and payable on the 1st day of May, eighteen hundred
and eighty, and the said bonds in the meantime
bearing interest at the rate of seven per cent. per
78 annum, payable semi-annually on the first days of
May and November.

And whereas there are also now outstanding and
unpaid, as debts of the said party of the first part,
one million dollars in amount of the so-called second
mortgage bonds of the said The Memphis and
Charleston Railroad Company, issued under and secured by said Company's so-called second mortgage
or deed of trust, dated Jannary first, eighteen hun-
79 dred and sixty-seven, to Gustavus L. Mastin, George
W. Neal and William C. Rehen, as trustees, covering the same premises as the said so-called first
mortgage, but subject to the prior lien and encumbrance of such so-called first mortgage, and in like
manner therewith subject, so far as respects the said
line of railroad, in the State of Tennessee, and the
appurtenances and equipment thereof, to the prior
and paramount lien and encumbrance thereon of
the said debt and lien, originally existing in favor
80 of the State of Tennessee, and now held by Adrian
Iselin and Adrian Iselin, junior, as aforesaid, the
principal of the said so-called second mortgage
bonds, for one million dollars, falling due and payable on the first day of January, eighteen hundred
and eighty-five, and the said bonds in the meantime
bearing interest at the rate of senen per cent. per
annum, payable semi-annually on the first days of
January and July.

AND WHEREAS the said party of the first part is 81
subject to certain further indebtedness, for the
liquidation whereof it needs to make provision.

AND WHEREAS the said Adrian Iselin, and Adrian
Iselin, junior, have expressed their willingness in a
certain manner, and upon certain conditions, to
make a certain eventual deduction or discount from
the full amount now due or owing to them, upon
the said indebtedness and lien, originally existing
in favor of the State of Tennessee, which has been 82
assigned to and is now held by them as aforesaid,
provided the said Railroad Company will give to
them such additional collateral security for such indebtedness upon the terms and conditions hereinafter mentioned in that behalf, and enter into and carry out such arrangements with them in respect of
the eventual liquidation and satisfaction of said indebtedness as are hereinafter stated.

AND WHEREAS, in the exercise of the powers in 83
that behalf possessed by it, under the laws of the
respective States of Tennessee, Alabama, and Mississippi, in order to provide for further securing
the payment of its aforesaid indebtedness, originally
existing in favor of the State of Tennessee, assigned
and transferred to, and now held by Adrian Iselin,
and Adrian Iselin, Junior, as aforesaid, and also to
make such provision as is hereinafter contained or
declared, for the eventual liquidation and satisfaction of that indebtedness, with the interest accru- 84
ing and to accrue thereon, from and after the first
day of July, eighteen hundred and seventy-seven,
and likewise in order to provide for taking up and
discharging its above mentioned, now outstanding,
first mortgage bonds, so called, for twelve hundred
and ninety-three thousand dollars, with the interest
thereon, and its second mortgage bonds, so called,

85 for one million dollars, with the interest thereon,
and its other now existing indebtedness hereinbe-
fore referred to, and thus to consolidate and arrange
its debts, as by law it is entitled to do,and for other
lawful uses and purposes of its business, and agree-
ably to the laws regulating it. The said The Mem-
phis and Charleston Railroad Company, in accord-
ance with resolutions of its shareholders, and of its
Board of Directors, at meetings of such sharehold-
ers, and such Board of Directors, respectively, duly
86 and regularly held, has caused to be prepared and
made ready for execution, under its corporate seal,
with the signatures of its President and Treasurer,
respectively, and for subsequent issue, negotiation
and use, as hereinafter provided, its certain, so
called, consolidated first mortgage bonds, for the
aggregate amount of four millions seven hundred
thousand dollars of United States Gold Coin, con-
sisting of four thousand seven hundred of such
bonds, numbered consecutively from 1 (one) to
87 4,700 (four thousand seven hundred), both inclusive,
bearing date respectively the twentieth day of Au-
gust, eighteen hundred and seventy-seven, each
of such bonds being for the payment to the
holder thereof, on the first day of January, nine-
teen hundred and fifteen, in the City of New York,
of one thousand dollars, in United States Gold
Coin, and for the payment of interest thereon
from the first day of July, eighteen hundred and
seventy-seven, and in the meantime, at the rate of
88 seven per cent. per annum, in like Gold Coin, in
the City of New York, semi-annually, on the first
days of January and July, in each year, on presen-
tation and surrender of the coupons, or interest
warrants for such interest, to such bond annexed,
and in accordance with resolutions, both of its
shareholders and its Board of Directors, repectively,
duly held, has determined to secure the payment of

the principal and interest of said bonds, which shall 86
be issued within the said aggregate limit of four millions seven hundred thousand dollars, by this mortgage, in the manner and to the effect hereinafter expressed.

And Whereas, the form of such bonds, and of the coupons, or interest warrants to be annexed thereto, and of the trustee's certificate to be endorsed thereon by the Trustee of this mortgage,
viz.: the said party of the second part hereto, and 90
to be executed on behalf of the said party of the second part hereto by its president are to be substantially as follows:

UNITED STATES OF AMERICA,

[NUMBER.] CONSOLIDATED [NUMBER.]

FIRST MORTGAGE BOND

The Memphis and Charleston Railroad Company.

INTEREST PAYABLE SEMI-ANNUALLY, 91
JANUARY AND JULY.

[1000] [VIGNETTE.] [1000]

The Memphis and Charleston Railroad Company promises, for value received, to pay to the holder of this bond, on the first day of January, nineteen hundred and fifteen, the sum of one thousand dollars, in United States Gold Coin, in the City of New York, with interest thereon in the meantime
at the rate of seven per cent. per annum, payable 92
in like gold coin, in the City of New York, semiannually, on the first days of January and July in each year, on presentation and surrender of the annexed interest warrants.

This bond, with others issued or to be issued, amounting to not more than four millions seven hundred thousand dollars, is secured by a mortgage

93 of said Company's road, franchises and equipment, as provided in an indenture of trust and mortgage made to the Farmers' Loan and Trust Company of the City of New York, dated the twentieth day of August, eighteen hundred and seventy-seven. This bond shall pass by delivery or by transfer on the books of the Company. After a registration of ownership, certified hereon by the Transfer Company, no transfer except on the books of the Agent of the Company shall be valid unless the last transfer be to
94 bearer.

In witness whereof, the said Company hath hereunto affixed its corporate seal, and caused this bond to be signed by its President and Treasurer, this twentieth day of August, eighteen hundred and seventy-seven.

[L. S.]

President.

[VIGNETTE.]

Treasurer.

95

FORM OF COUPON.

$35 ——	On the first day of January, 18—, the Memphis and Charleston Railroad Company will pay to bearer, in the City of New York, in United States gold coin, Thirty-five Dollars, being for semi-annual interest on bond No. *Treas.*	$35 ——

96

FORM OF TRUSTEES CERTIFICATE.

We hereby certify that this is one of the Bonds issued under the Mortgage therein referred to.

THE FARMERS LOAN AND TRUST CO., TRUSTEES,

by *President.*

and none of which bonds are to be entitled to share 97
in the benefit or security of this mortgage unless
they shall have endorsed thereon such certificate of
the Trustee hereunder, or its successor or successors
in the trust, and which coupons are to be issued
with the engraved signature of the Treasurer of
said Railroad Company, and when thus issued by
said Railroad Company, it is hereby by it agreed
shall be as binding upon it as if such signature were
written by said Treasurer.

Now, THIS INDENTURE WITNESSETH, that in order 98
to secure the due and punctual payment of the
principal and interest mentioned in, and to become
payable upon the above mentioned bonds, within
the said aggregate limit of four millions seven hundred
thousand dollars, in United States gold coin,
and of the coupons accompanying the same, according
to the tenor and effect of such bonds and
coupons, respectively, and in consideration of the
premises aforesaid, and of one dollar to the said
party of the first part in hand paid by the said 99
party of the second part, at and before the unsealing
and delivery of these presents, the receipt
whereof is hereby acknowledged, the said The Memphis
and Charleston Railroad Company, party of
the first part, HATH granted, bargained, sold, conveyed,
assigned, transferred, and set over, and by
these presents DOTH grant, bargain, sell, convey,
assign, transfer, and set over, unto the said The
Farmers' Loan and Trust Company, party of the
second part, and to its successors and assigns forever, 100
ALL and singular the main line of Railroad of
the said Memphis and Charleston Railroad Company,
extending from the point of commencement
thereof, in the City of Memphis, in the State of
Tennessee, via Corinth, in the State of Mississippi,
and Huntsville, in the State of Alabama, to the
terminus thereof in Stevenson, in the said State of

Alabama, connecting there with the Nashville and Chattanooga Railroad, being a distance of two hundred and seventy-two miles, be the same more or less, and also the branch of said Railroad, situate in the State of Tennessse, known as the Somerville and Moscow Branch, extending from Moscow, on the main line to Somerville, a distance of about fourteen miles, be the same more or less; and also the branch of said railroad, situate in the State of Alabama, extending from Tuscumbia, on the mainland to Florence, a distance of about five miles, be the same more or less, and including the bridge across the Tennessee River, near Florence; and also the Washington Street branch so-called of said railroad, extending from the depot of said main line, in the City of Memphis through Washington Street and Centre Landing to the Mississippi River and the depot grounds and wharves on said river, and all the rights and privileges of said Railroad Company in respect of the use of the streets and the wharves and levee on the Mississippi river; and also all and singular the rights of transportation of the passenger cars and freight cars of the said party of the first part on and over the railroad between Stevenson, in Alabama, and Chattanooga, in Tennessee, which the party of the first part has or is entitled to, or can, or could, now or hereafter claim under or in virtue of the contract of the date of June twenty-third and July twenty-sixth, eighteen hundred and fifty-eight, made between the Memphis and Charleston Railroad Company and the Nashville and Chattanooga Railroad Company, and all the rights and privileges whatsoever, for or in respect of the use of or transportation over the line of railroad between Stevenson and Chattanooga, now belonging to the Nashville, Chattanooga and Saint Louis Railway Company, which the said party of the first part holds or is in any wise en-

titled unto, or can, or could now or at any time 105
hereafter, claim either under or in virtue of the before-mentioned contract of June and July, eighteen hundred and fifty-eight, or otherwise howsoever, together with all and singular the roadway or track of the aforesaid main line of railroad, extending from Memphis to Stevenson, as aforesaid, and of the said several branches respectively, and the superstructure and rails laid or to be laid thereon respectively, and all the appurtenances thereof, and all the sidings, turnouts, bridges, wharves, 106
viaducts, culverts, walls, fences, ways and rights of way, depots, station-houses, engine-houses, car-houses, freight-houses, wood-houses, depot grounds, and lands procured, provided, or intended for use for that purpose, building and repair shops, machine shops, and lands used or procured, or intended for sites thereof, and other buildings, structures, lands or improvements whatsoever, leases and leasehold interests, contracts, easements and privileges now belonging or appertaining to, or used, 107
or procured, or designed to be used for the purposes of, or in connection with, the said main line of railroad and branches respectively, or the maintenance or operation thereof, or of any part thereof, or which shall at any time hereafter belong or appertain to, or be used, or procured, or obtained with the design of being used for the purposes of or in connection with said main line of railroad and branches respectively, or the maintenance or operation thereof, or of any part thereof, and also all the 108
locomotives, tenders, passenger cars, baggage cars, freight cars and other cars, and all other rolling stock or equipment, and all machinery, tools and implements, rails, chairs and spikes, and other materials whatsoever now owned or possessed by the said party of the first part, or which shall at any time or times hereafter be acquired, owned, or pos-

109 sessed by the said party of the first part, or its suc-
cessors, for the uses or purposes of, or designed for
use, in connection with or for the operation, main-
tenance or reparation of the said main line of rail-
road and branches respectively, or the equipment or
appurtenances thereof, and all the engines, cars and
rolling stock or equipment of any kind, machinery,
tools, implements, rails and other materials, which
shall at any time or times hereafter belong or ap-
pertain to, or be in use, or on hand designed for
110 use, for the purposes of said main line of railroad
and branches, respectively, or any part thereof, and
all the lands and real estate whatsoever of any and
every kind whatsoever, and all improvements there-
on, situate in the States of Tennessee, Alabama, and
Mississippi, respectively, which are now owned or
possessed by, or which now belong to the said party
of the first part, and also all and singular the rights,
privileges, and franchises whatsoever, which the
said party of the first part now holds, possesses, or
111 is entitled unto, and also all franchises, rights and
privileges whatsoever, which the said party of the
first part shall hereafter acquire or become pos-
sessed of, or entitled unto, for and in respect of or
for the uses or purposes of the said main line of
railroad and branches, respectively, or the opera-
tion or maintenance thereof; and also all the tolls
and income of the said main line of railroad and
branches, respectively, together with all and singu-
lar the tenements, hereditaments and appurtenances
112 unto the premises aforesaid, or any of them, or any
part thereof, belonging or in any wise apper-
taining, and the reversion and reversions, remainder
and remainders, rents, issues and profits thereof,
and all the estate, right, title, interest, property,
possession, claim and demand whatsoever, as well
at law as in equity, of the said party of the first
part, of, in and to the same and every part and

parcel thereof, with the appurtenances, but subject 113
always to the prior and paramount lien now held by
Adrian Iselin and Adrian Iselin, Junior, upon such
part of the said railroad and branches as is situate
in the State of Tennessee, and upon all the rolling
stock and equipment thereunto belonging or appertaining, and upon all that portion of the said hereby
mortgaged premises or property which is situate in
the State of Tennessee, for the amount of the aforesaid indebtedness of said party of the first part,
originally existing in favor of the State of Tennessee, 114
and assigned by said State to, and now held by
Adrian Iselin and Adrian Iselin, Junior, as aforesaid, which lien it is expressly understood and
hereby agreed and declared, is to remain in full
force and effect as a lien in favor of said Adrian
Iselin and Adrian Iselin, Junior, and their representatives or assigns, prior and paramount to the
lien created by this indenture, until the indebtedness for which such lien is held shall be paid and
satisfied or discharged; and the same is, or is to be, 115
expressly confirmed and further assured by the said
Memphis and Charleston Railroad Company to the
said Adrian Iselin and Adrian Iselin, Junior, and
their representatives and assigns, as a good and
valid lien prior to this Indenture of Mortgage upon
all that part of the hereby mortgaged premises
which is situate in the State of Tennessee, including
the rolling stock or equipment and other chattel
property belonging or appertaining to the portion
of said railroad line, in the State of Tennessee, for 116
the above-mentioned amount of seventeen hundred
and thirty-six thousand nine hundred and six dollars and twenty-five cents, with the interest thereon
accrued and to accrue from and after July first,
eighteen hundred and seventy-seven, and with the
assurance, confirmation and grant by said Railroad
Company to said Adrian Iselin and Adrian Iselin,

117 Junior, of appropriate remedies for enforcing and effectuating said lien and the security thereof, and of the said indebtedness.

To HAVE AND TO HOLD all and singular the said
main line of railroad and branches respectively, with
their appurtenances and rolling stock and equipment,
present and future, and all other the premises,
properties, rights, interests and franchises, immunities,
privileges and other things aforesaid, subject
118 to the said prior lien in favor of Adrian Iselin and
Adrian Iselin, Junior, and their representatives or
assigns as aforesaid, unto the said party of the
second part, as trustee as aforesaid, and its successors
and assigns for ever, in trust for the equal *pro
rata* use, benefit and security of all the persons and
corporations who shall become or be the owners or
lawful holders of any of the said bonds within the
aggregate amount of four million seven hundred
thousand dollars, intended to be hereby secured as
119 aforesaid, without preference of any of the said
bonds over any of the others by reason of priority
in the time of the issuing or negotiation thereof,
but with such special rights, nevertheless, to the
holders of the fourteen hundred of such bonds,
numbered from one to fourteen hundred inclusive,
as are hereinafter in that behalf declared and provided
for.

PROVIDED ALWAYS, nevertheless, and these presents
are upon the express condition, that if the said
120 party of the first part shall well and truly pay and
satisfy the said bonds to the aggregate amount of
four million seven hundred thousand dollars hereby
intended to be secured as aforesaid, or such of the
same as shall be issued, and the interest from time
to time accruing thereon, according to the tenor and
effect of the said bonds and the coupons or interest
warrants accompanying the same, then this indent-

ure and all and singular the estates, rights and in- 121
terests hereby granted to or vested in the said party
of the second part shall cease, determine, and become
of no effect.

AND IT IS HEREBY UNDERSTOOD, DECLARED,
GRANTED, AGREED AND PROVIDED, that of the afore-
said bonds to the aggregate amount of four million
seven hundred thousand dollars designed to be
issued under and secured by this indenture as
aforesaid, fourteen hundred thousand dollars in 122
amount thereof, being the fourteen hundred of such
bonds for one thousand dollars each, numbered
from one (1) to 1400 (fourteen hundred) inclusive,
are appropriated, designed and intended to be
used and applied by the said party of the
first part for the purpose and in the manner follow-
ing; that is to say, the same are to be transferred
and delivered by the said railroad company, party
of the first part, to the said Adrian Iselin and Adri-
an Iselin, Junior, as an additional collateral secu- 123
rity to them and their representatives and assigns
for the aforesaid indebtedness of the said railroad
company originally existing in favor of said State
of Tennessee, and assigned and transferred to and
now held by said Adrian Iselin and Adrian Iselin,
Junior, as aforesaid, and now amounting, as afore-
said, to seventeen hundred and thirty-six thousand
nine hundred dollars and twenty-five cents, besides
the interest accrued and to accrue thereon from and
after the first day of July, eighteen hundred 124
and seventy-seven, under an arrangement and agree-
ment between said railroad company, party of the
first part hereto, and said Adrian Iselin and Adrian
Iselin, Junior, by which such transfer and delivery
to them of the said fourteen hundred bonds is not
in anywise to operate as a payment of or upon ac-
count of the said indebtedness held by them under

125 transfer from the State of Tennessee, nor is the same to diminish, impair or affect the said prior and paramount lien for the amount of such indebtedness, and the interest accrued and to accrue thereon upon the said portion of said railroad situate in the State of Tennessee, with its appurtenances and equipment, and the other property in the said State which originally existed in favor of the State of Tennessee, and is now held by Adrian Iselin and Adrian Iselin, Junior, under transfer from said State as aforesaid;
126 but that notwithstanding such transfer and delivery to said Adrian Iselin, and Adrian, Junior, of said fourteen hundred bonds, the said debt against said railroad company now held by them under transfer from the State of Tennessee, and the lien thereof originally existing in favor of said State, and vested in them by transfer as aforesaid, and all the rights and remedies and securities of said Adrian Iselin and Adrian Iselin, Junior, for the security of such indebtedness originally existing in favor of the State, with the
127 interest accrued and hereafter to accrue thereon, and for enforcement of the lien thereof, are to remain in full force and effect, as if such fourteen hundred bonds had not been transferred and delivered as additional security therefor as aforesaid.

Provided, however, that all sums of money which shall be actually paid by said railroad company on account of interest or principal upon such fourteen hundred bonds, or either of them, either to said Adrian Iselin and Adrian Iselin, Junior, or to any
128 one holding any of such bonds by or under transfer from them, are, when such payments respectively are actually made and realized in cash, and not before to be credited as payments on account of the said original indebtedness to the State of Tennessee assigned to Adrian Iselin and Adrian Iselin, Junior, as aforesaid, reckoning for the purpose of such credit such payments made in gold at the value thereof, in United

States legal tender currency at the time of such pay- 129
ment; which payments received for interest on such
fourteen hundred bonds, numbers one to fourteen
hundred inclusive, are to be credited on account of
the interest accruing subsequently to July first,
eighteen hundred and seventy-seven, on said in-
debtedness originally existing in favor of the State,
and assigned to Adrian Iselin and Adrian Iselin,
Junior, as aforesaid, and which payments, if any,
received for on account of principal of such fourteen
hundred bonds shall be applied on account of the 130
principal of such indebtedness originally existing in
favor of the State, and by it assigned over as afore-
said, and the interest thereon accrued up to July
first, eighteen hundred and seventy-seven; and with
the further provision in such arrangement that said
Adrian Iselin and Adrian Iselin, Junior, shall be
entitled to sell or otherwise dispose of and to trans-
fer to any person or persons or corporations any of
the said fourteen hundred bonds so transferred
and delivered to them as they may deem fit, 131
without thereby prejudicing or affecting the said
original indebtedness to the State so assigned to
them, or the said lien held therefor, or the rights
or remedies of themselves or their asssigns in re-
spect thereof, and without subjecting themselves or
their assigns to any present credit upon such in-
debtedness for or in respect of such bonds so sold
or so disposed of or transferred, but subject to the
aforesaid obligation to give credit on such indebted-
ness for all payments which shall be made 132
for principal or interest on such bouds
so sold or disposed of or transferred when
such payments are actually made and realized
in cash, qut not before; and under the further un-
derstanding and arrangement that said Adrian Ise-
lin and Adrian Iselin, Junior, in anticipation of
making sales or dispositions or transfers of such

133 fourteen hundred bonds or portions thereof, shall be at liberty to assign and transfer the said original indebtedness of the Railroad Company to the State, and the State's lien therefor transferred to them as aforesaid, and all their present and future rights and remedies in respect thereof to a trustee or trustees, to be held for the equal *pro rata* benefit of the holders from time to time of such fourteen hundred bonds, numbers one to fourteen hundred, inclusive, and so as that proportionate beneficial
134 or equitable interests in the said indebtedness originally existing in favor of the State, including the interest thereon accrued and hereafter to accrue, and in the lien which was held by the State therefor, and in the rights and remedies in respect thereof may invest in equitable or beneficial interest in the holders from time to time of such fourteen hundred collateral bonds, numbers one to fourteen hundred, inclusive, including the said Adrian Iselin and Adrian Iselin, Junior, themselves, in respect of
135 so many of said fourteen hundred bonds as may remain in their hands untransferred and undisposed of by them, with *pro rata* equality in proportion to the respective amounts held by such parties respectively of such fourteen hundred bonds, and so that the holder of each of such fourteen hundred bonds, numbers one to fourteen hundred, inclusive, may be entitled to a proportionate beneficial interest in such amount or proportion of the said indebtedness originally existing in favor of the State, with the
136 interest thereon accrued and to accrue, and the said liens and rights held for the security thereof corresponding with the principal and interest of such bond so held by him, and with the proper proportionate addition thereto by reason of the principal and interest of such bond being payable in gold instead of currency; but the legal title to such original indebtness, with its attendant liens and securi-

ties, shall remain in the said trustees to whom the 137
same shall be transferred by the said Adrian Iselin
and Adrian Iselin, Junior, in trust for the holders
of said fourteen hundred collateral bonds, to the end
and intent that notwithstanding any sale or other
disposition or transfer which may be made of such
fourteen hundred collateral bonds, the said original
debt and lien preserved in full force, and the said
bonds held as further collateral security may in
substance and effect be beneficially held by or for
account of the same persons, and that the parties 138
may substantially, in respect of beneficial or equitable interests, be in like positions as if the said
original debt and lien and said collateral bonds had
all continued to be held by said Adrian Iselin and
Adrian Iselin, Junior, or had been altogether assigned over by them to the same person or persons.

And inasmuch as under such proposed arrangement, and in virtue of the terms and conditions of
this mortgage and the bonds thereby secured, there
will exist a double lien and security for substanti- 139
ally the same amount or indebtedness in favor of
the holders of said debt and lien, originally held by
the State of Tennessee, and assigned over to Adrian
Iselin and Adrian Iselin, Junior, as aforesaid, and
preserved and kept in force in the hands of the trustee, to whom the same is to be assigned as aforesaid,
and of the holders of the said fourteen hundred
bonds, numbers one to fourteen hundred, inclusive,
held as further collateral security therefor, and
which double lien, as to a part thereof, will exist 140
upon the same subject matter—viz: The said railroad in Tennessee, with its appurtenances and
equipment, and the other property in the State
which is subject to the State lien, now it is hereby
declared, provided, granted, declared and agreed
that such double lien and security is intended to
and shall exist, and that neither lien or security

141 shall prejudice the efficacy of the other; that the said State lien, held by assignment as aforesaid, may be enforced, and all rights and remedies in respect thereof may be held and had as fully and completely and effectually as if the lien and security in favor of the holders of such fourteen hundred bonds as further collateral security, as aforesaid, did not exist, and that the holders, from time to time, of such fourteen hundred bonds, so transferred by way of further collateral security for 142 such original debt, shall be entitled as fully and completely and effectually as if the said original lien and security for the original debt, as further security for which said fourteen hundred bonds are transferred, did not exist to their equal *pro rata* share and proportion in like manner with the holders of the other bonds, numbers (1401) fourteen hundred and one to (4700) four thousand seven hundred inclusive, to be issued under and secured by this mortgage, or such of such other bonds as may 143 from time to time be outstanding, of the benefit of all securities and liens provided by this mortgage, and of the proceeds and fruits thereof, and of any foreclosure or enforcement of the same, including as well the mortgaged premises situate in Alabama and Mississippi as the other mortgaged premises, save and except that if, prior to making apportionment and distribution between the holders of the bonds secured by the indenture of mortgage, of the net proceeds of any foreclosure or other legal en- 144 forcement thereof, any net sum shall have been actually collected and realized in cash by means of legal enforcement of the said lien originally held by the State of Tennessee, and assigned over to Adrian Iselin and Adrian Iselin, Junior, as aforesaid, by giving proper credit wherefor, after first deducting therefrom all proper expenses and charges incurred in respect of the proceedings for such enforcement

and collection, including the compensation of the 145 said trustee, to whom the same shall be so assigned by said Adrian Iselin and Adrian Iselin, Junior, in respect thereof, the then unpaid amount of the said indebtedness of the railroad company, originally existing in favor of the State, and by it transferred over as aforesaid, and as collateral security for which said fourteen hundred bonds, numbers one to fourteen hundred inclusive, shall be held as aforesaid, shall be reduced below the principal of such fourteen hundred bonds and the interest thereon 146 accrued and unpaid at the time of such apportionment and distribution, having due regard to the circumstance that said bonds are payable in gold, and therefore reducing the amount of such net credits or deductions to the value thereof in gold when collected and realized, then, and in such case, for the purposes of making such apportionment and distribution between the respective bondholders secured by this indenture of mortgage, of the net proceeds of such foreclosure or other legal enforcement of 147 this mortgage, the said fourteen hundred bonds, numbers one to fourteen hundred inclusive, instead of being reckoned at their face value, with their accrued and unpaid interest, shall be reckoned as being only for an amount equal to such reduced amount, computed as aforesaid, remaining unpaid at the time of such apportionment and distribution upon the said indebtedness of said railroad company, originally existing in favor of the State of Tennessee, and by it transferred over as afore- 148 said, and for which the said fourteen hundred bonds shall stand as security as aforesaid, and such apportionment and distribution between said fourteen hundred bonds and the other then outstanding bonds hereby secured shall be made accordingly; and it being always understood, agreed and provided that the double lien and security, 149 as aforesaid, will not and shall not be allowed so to operate as to produce an actual double payment or satisfaction of the same substantial debt, but that all payments actually received and realized in money, by means of either security, will and shall, to the extent of such actual payments realized, go in reduction of said original debt and of said collateral bonds held as security therefor, but making the proper allowance for difference between gold and currency as aforesaid.

150

AND IT IS FURTHER DECLARED AND UNDERSTOOD that it will be made a part of the said arrangement between said railroad company and said Adrian Iselin and Adrian Iselin, Junior, that said Adrian Iselin and Adrian Iselin Junior, shall consent so far to reduce the amount of their said claim and demand against said railroad company and the lien and security therefor, under the said assignment and transfer from the State of Ten-
151 nessee to them, as that, when they or their assigns shall have actually received and realized in cash, by net payments, as on account of the principal of the said indebtedness of seventeen hundred and thirty-six thousand nine hundred and six dollars and twenty-five cents, in United States legal tender currency, due July first, eighteen hundred and seventy-seven, a sum equal to fourteen hundred thousand dollars in United States gold coin, reducing currency realizations or payments to gold values
152 as aforesaid, and shall likewise have actually received and realized in cash, by net payments, as on account of interest accrueing at the rate of six per cent per annum, payable semi-annually on the first days of January and July, upon the said currency indebtedness of seventeen hundred and thirty-six thousand nine hundred and six dollars and twenty-five cents, a sum equal to seven per

cent per annum in United States gold coin, from 153
the first day of July, eighteen hundred and seventy-seven, payable semi-annually on the first days of January and July, upon such sum of fourteen hundred thousand dollars gold, until payment and realization in cash, as aforesaid, of that principal sum, reducing currency realizations or payments to gold values as aforesaid, the residue of such currency indebtedness of seventeen hundred and thirty-six thousand nine hundred and six dollars and
twenty-five cents, and of the interest accruing 154
thereon, from and after July first, eighteen hundred and seventy-seven, shall be thereupon given up, released and discharged to the said Railroad Company; provided, however, as a condition thereof that said Railroad Company shall bear, pay and discharge all the expenses and charges attendant upon the collection and receipt of such monies on account of the principal or interest, or either of such indebtedness originally existing in favor of the
State, and of all legal and other proceedings had or 155
taken for the recovery thereof, including the compensation of such trustee in respect of such collection, receipt and legal and other proceedings; and that this stipulation and agreement shall bind the representatives and assigns of said Adrian Iselin and Adrian Iselin, Junior, including the trustee to whom such original debt and lien is to be so assigned, and that for the purposes thereof all cash payments received and realized for principal or interest upon
such fourteen hundred bonds, numbers one to four- 156
teen hundred inclusive, or any of them, by parties holding such bonds under transfer from said Adrian Iselin and Adrian Iselin, Junior, shall be of like legal affect as if such monies were received by said Adrian Iselin and Adrian Iselin, Junior.

AND IT IS HEREBY FURTHER PROVIDED, DE-

157 CLARED, GRANTED AND AGREED by and between the parties hereto that fourteen hundred and thirty-six thousand dollars in amount of the bonds issuable under and intended to be secured by this indenture, that is to say, such bonds for one thousand dollars each, numbered from 1401 (fourteen hundred and one) to 2836 (twenty-eight hundred and thirty-six), both inclusive, are specially reserved and appropriated for the purpose of taking up and discharging the before-mentioned twelve hundred and ninety-
158 three thousand dollars, in amount of now outstanding first mortgage bonds of said Railroad Company, issued under and secured by its said first mortgage so called, dated May first, eighteen hundred and fifty-four, and said fourteen hundred and thirty-six bonds so appropriated are to be reserved in the hands of the Trustee hereunder, unissued until the same shall be actually applied to such purpose as herein next provided, to which end the said Trustee is hereby authorized to and shall deliver over such
159 reserved fourteen hundred and thirty-six bonds to the said Railroad Company, for use and negotiation by it, when and in proportion as the said Railroad Company shall deliver up to the said Trustee in a cancelled condition such twelve hundred and ninety-three now outstanding first mortgage bonds, the said Trustee delivering over such reserved new bonds to said Company, as aforesaid, at the rate of ten thousand dollars thereof for each nine thousand dollars of principal amount of such now outstand-
160 ing first mortgage bonds, so delivered over in cancelled condition to said Trustee. And it is further provided, declared, granted and agreed that a further amount of one million dollars of the bonds issuable under and intended to be secured by this indenture, that is to say, such bonds for one thousand dollars each, numbered from 2,836 (twenty-eight hundred and thirty-seven) to 3,838 (thirty-

eight hundred and thirty-six), both inclusive, are 161
specially reserved and appropriated for the purpose
of taking up and discharging the before mentioned
one million dollars in amount of now outstanding
ing second mortgage bonds of said railroad
company, issued under and secured by its said,
so called, second mortgage, dated January first,
eighteen hundred and sixty-seven, and said one
thousand bonds so appropriated are to be reserved
in the hands of the Trustee hereunder, unissued,
until the same shall be actually applied to such 162
purpose as herein next provided, to which end the
said Trustee is hereby authorized to, and shall de-
liver over such reserved one thousand bonds to the
said Railroad Company, for use and negotiation by
it, when and in proportion as the said Railroad
Company shall deliver up to said Trustee, in a can-
celled condition, such now outstanding one thous-
and second mortgage bonds, the said Trustee deliv-
ering over such reserved new bonds to said Com-
pany, as aforesaid, at the rate of one thousand dol- 163
lars thereof for each one thousand dollars of princi-
pal of such second mortgage bonds, so delivered to
it in a cancelled condition. And it is hereby pro-
vided, declared and agreed that said party of the
second part must not and shall not permit to be
issued as certified or countersigned by it, the said
twenty-four hundred and thirty-six bonds, numbers
1,401 (fourteen hundred and one) to 3,836 (thirty-
eight hundred and thirty-six), which are reserved
for taking up and providing for such outstanding 164
first and second mortgage bonds, as aforesaid, ex-
cept under and in conformity with the foregoing
provisions and limits in respect thereof: PROVIDED,
HOWEVER, that, in case said Railroad Company
shall arrange with any holders of such now out-
standing first and second mortgage bonds for an
extension of time of payment thereon, and for giv-

165 ing as additional security therefor, or for the indebtedness represented thereby, such new bonds hereby reserved, for providing for the same at rates not exceeding ten thousand dollars of such new bonds for each nine thousand dollars of such now outstanding first mortgage bonds, and not exceeding one thousand dollars of such new bonds for each one thousand dollars of such now outstanding second mortgage bonds, and for depositing both such old extended bonds, and such new collateral
166 bonds with some responsible Trust Company in the City of New York, or other agreed depository in said City, satisfactory to the party of the second part, under such agreement of trust, or otherwise, as may be fixed upon with a view to avoiding the risk to the Railroad Company, and its other creditors, of a double payment upon such indebtedness thus extended and secured; the said party of the second part hereto shall be, and hereby is, authorized and required to give effect to such arrange-
167 ment, and to deliver over in accordance therewith such reserved new bonds to such agreed Trust Company, or other depository, anything hereinbefore contained to the contrary notwithstanding.

IT IS FURTHER UNDERSTOOD, DECLARED AND PROVIDED, That as to the issue and negotiation of the bonds issued under and secured by this mortgage other than the twenty-four hundred and thirty-six bonds so appropriated and reserved for taking up
168 said first and second mortgage bonds, the said party of the second part assumes no responsibility and is to exercise no supervision, but is to countersign or certify and deliver over to the said Railway Company for transfer or negotiation by it without supervision the said other bonds—that is to say, those numbered from one to fourteen hundred inclusive, and those numbered from thirty-eight hundred and

thirty-seven to four thousand seven hundred inclu- 169
sive.

And it is further provided, declared and
agreed, That the said party of the first part re-
serves to itself and it shall have and possess the
right and privilege, anything hereinbefore con-
tained to the contrary notwithstanding, to agree
with the holders of all or any of the said now out-
standing first mortgage bonds and second mortgage
bonds respectively for an extension of time of pay- 170
ment thereof, at rates of interest not exceeding
those which the said bonds now bear, and for pre-
serving, keeping in full force and effect, and if
necessary or desirable renewing as a lien or liens
prior and superior to the lien of this indenture of
mortgage the now existing lien or liens, and secur-
ity of such first and second mortgage respectively,
upon the property and franchises covered thereby;
for the unpaid amount of such bonds, including the
interest accruing subsequently to such extension, 171
and it shall be competent for the party of the sec-
ond part hereto, as Trustee hereunder, to execute
any instrument, or instruments, expressing its con-
currence as Trustee in, or effectuating such
preservation, keeping in force and renewing
of such lien or liens as above authorized
and provided as a lien prior and superior to the lien
of this mortgage; provided always, and it is ex-
pressly understood, declared and provided, that
nothing above contained is to authorize any inter- 172
ference with, or impairment in any respect of the
before-mentioned prior and paramount lien upon
the said railroad in Tennessee with its appurten-
ances and equipment, and the other property of
said railroad company in that State, now held by
said Adrian Iselin and Adrian Iselin, Junior, under
transfer from the State of Tennessee, as aforesaid,

173 and proposed to be transferred in trust for the special security of the holders of said fourteen hundred bonds, numbers one to fourteen hundred inclusive, as aforesaid.

AND IT IS FURTHER PROVIDED, DECLARED AND AGREED by and between the parties hereto, as follows, that is to say:

First.—In case default shall at any time be made by the party of the first part in the due and punctual 174 payment of any instalment of semi-annual interest at any time becoming due and payable upon any of the said bonds, within the aggregate amount of forty-seven hundred thousand dollars, issued under the security of this mortgage as aforesaid; and if any such interest shall remain in arrear and unpaid for sixty days after demand thereof, then and in such case if, and when thereafter the holders, at the time being, of one-third in amount of the then outstanding bonds, issued under and entitled 175 to the benefit of the security of this mortgage, shall by instrument or instruments executed by them respectively, or their attorneys in fact thereunto duly authorized, and delivered to the party of the second part, or its successor or successors, as trustee hereunder, so elect, the principal sums secured by and payable upon all and singular the said bonds, within the aggregate amount of forty-seven hundred thousand dollars, issued under the security of this mortgage as aforesaid, with all arrears of interest 176 thereon, shall become immediately due and payable, although the time for the payment of said principal, originally stipulated in said bonds shall not yet have arrived, anything in the said several bonds contained to the contrary notwithstanding.

Second.—Until the party of the first part shall have made some default in the payment of the prin-

cipal or interest secured by or payable upon the 177
said bonds hereby intended to be secured, or upon
some of such bonds, or some part of such principal
or interest, or in the performance of some other of
the covenants, stipulations and provisions on the
part of the party of the first part in this indenture
contained, the said party of the first part shall be
entitled to continue in the possession, use and enjoyment
of the said railroad and other mortgaged
premises, properties, rights, interests and franchises,
and in receipt of the income, rents and profits thereof, 178
and while the said party of the first part shall so
remain in possession, and there shall be no such
subsisting default in the payment of interest or
principal, or in the performance of the stipulations,
conditions and provisions on the part of the said
party of the first part in this indenture contained,
the said party of the second part, or its successor or
successors in the said trust, shall have full power
and authority, to be exercised in its or their own
discretion, and not otherwise, to release from the 179
lien and operation of these presents, in such manner
as it or they may deem proper, any portion of the
premises hereby mortgaged which may be appurtenant
to the said mortgaged railroad, or any part
thereof, including the branches or which may have
been acquired or held for the uses or purposes
thereof, but which, in the judgment of the said
Trustee, shall be no longer requisite for use in connection
therewith, or which shall have been acquired
or held for stations, depots, shops or other buildings, 180
or for supplying fuel, gravel or other material,
and which in the Trustee's judgment shall be no
longer requisite to be kept for such purpose, and
likewise any lands not occupied by the track, which
may become disused by reason of a change in the
location of any station-house, depot, shop or other
building connected with the said railroad, and like-

181 wise any land occupied by the tracks, and adjacent to such station-house, depot, shop, or
other building, which the said party of the
first part, its successors or assigns, may deem it
expedient to disuse or abandon by reason of such
change, and likewise any part of the original line of
track or roadway, and of the depot grounds, buildings or accommodations connected therewith, which
may have been thrown out of or ceased to form part
of the railroad at the time of such release, by rea-
182 son of straitening *or alteration of the line of the
road or otherwise;* Provided, always, that the
power of release given by this article is designed to
be exercised, and shall be exercised only in case of
the said railroad company's selling or contracting
to sell the property so to be released, because of its
being no longer required for the uses or purposes of
said railroad, and requiring the same to be so released in order to give a perfect title to the purchaser or purchasers; and Provided further, that
183 when such released premises shall have been thrown
out of use, or ceased to be required, by reason of
change of the line of the road, or change of depot
grounds, buildings or other accommodations, the
substitutes therefor shall be conveyed by appropriate deeds to the trustee, upon the trusts and for the
uses and purposes of this indenture, before the giving of such release under the power contained in this
article. And provided further that as there are
depot grounds in the city of Memphis of much
184 greater extent and value than is required for the
uses of said railroad, and which may be advantageously and properly sold and disposed of in aid of
the general funds of the said railroad company and
without procuring substitutes therefor, it is understood and provided that under the foregoing power
the trustee may properly release such surplus depot
grounds upon the same being sold, and without re-

ceiving any substitute therefor. And the said Trustee shall likewise have full power to allow the said party of the first part, its successors or assigns, from time to time, to sell and dispose of such portion of the equipment, machinery and implements which shall be at any time held or acquired for the use of said railroad, as shall have become worn out or unfit for such use; PROVIDED, HOWEVER, that the same shall be adequately replaced by other equipment, machinery and implements, and all such other equipment, machinery and implements, which may be acquired in substitution as aforesaid, shall, by virtue and force hereof, become and be immediately upon the acquisition of the same, subject to the lien and operation of these presents, without any new conveyance or transfer or other act or ceremony whatever; but such new conveyance and transfer shall be given to the trustee or trustees, if it or they shall require or request the same. 185 186

Third. The said party of the first part doth hereby covenant, promise and agree, to and with the said party of the second part, and its successors in the trust hereby created, that while the said party of the first part shall remain in possession of the said railroad, it shall and will, from time to time, pay and discharge all taxes, assessments, and governmental charges, lawfully imposed upon the said railroad and branches, and other hereby mortgaged premises, or upon any part thereof, the lien of which might or could be held to be prior to the lien of these presents, so that the priority of this mortgage may be duly preserved, and that the said party of the first part shall not and will not do or suffer any matter or thing whatsoever, whereby the lien of this Indenture of Mortgage might or could be impaired, until the said bonds hereby secured with all interest accrued thereon, shall be fully paid and satisfied. 187 188

189 *Fourth.* In case default shall be made in the payment of any semi-annual instalment of interest, which may have accrued upon the said bonds hereby secured, or upon any of them, when such interest shall become or be due and be demanded, and if such interest or any part thereof, shall remain unpaid and in arrear for the period of sixty days, after demand thereof made according to the tenor of the coupon representing the same, or according to the tenor of the bond ; or in case default shall be made in the
190 due observance and performance of the covenant for further assurance hereinafter contained ; or in case default shall be made by said railroad company in the payment of any taxes, assessments or other governmental charges, which may be lawfully levied or imposed upon the said mortgaged railroad, and premises, or any part thereof, and the lien whereof might or could be held prior to the lien of these presents, and if any such default as last above mentioned shall continue for the pe-
191 riod of sixty days after notification to the said Railroad Company, of the existence of such unpaid taxes, assessments and other governmental charges, and request to said Railroad Company to make payment thereof, shall have been made or given by the Trustee under this mortgage, or by the holders of bonds secured hereby to the aggregate amount of not less than three hundred thousand dollars ; or in case default shall be made in the payment of the principal of said bonds hereby secured, or any of
192 such bonds, when such principal shall be due and payable, then, and in any and every such case of default made, in any particular aforesaid, and provided such default be continued as aforesaid, where such continuance is above called for, the said party of the second part, or its successor or successors in the said trust, may, either personally or by agent or attorney, enter into and upon the said Rail-

road and other mortgaged premises, properties and 193
rights, and have, hold and possess the same, with
the rights, privileges and franchises thereunto appertaining,
and operate the said Railroad by such
superintendents, managers, receivers, assistants,
servants and agents, as the said Trustee shall deem
proper, making from time to time all such repairs
and replacements, and all such useful alterations,
additions and improvements to the said Railroad,
and other mortgaged property, as the said Trustee
may deem expedient and judicious, and as the income 194
of the said mortgaged premises coming to the
Trustees, hands shall be adequate to pay for. And
it shall be lawful for the Trustee or Trustees, after
entry and possession as above authorized, to collect
and receive all fares, freights, issues, profits and income
of the said Railroad and other mortgaged
premises, and to deduct and retain and pay therefrom
all the lawful expenses or charges of, or incident
to, making such entry or obtaining possession
of said premises, and the proper expenses and 195
charges of or incidental to the holding, operating
and managing the said Railroad and premises and
conducting the business thereof, including the expense
of all such repairs, replacements, alterations,
additions, and improvements as above authorized,
and all payments which may be made or be due for
taxes, assessments or other charges, or liens prior
to the lien of these presents, upon the said Railroad
and premises, or upon any part or parcel thereof,
as well as just and reasonable compensation for the 196
Trustee's services in the premises, and for the services
of such attorneys and counsel as may have
been by it or them properly employed in respect
thereof; and after making all such deductions and
payments as aforesaid, the Trustee or Trustees shall
apply the net residue of such fares, freights, issues,
profits, and income remaining in its or their hands,

197 to the payment in the first place, of all overdue in-
terest on the bonds hereby secured, or any of them,
with the interest accrued on such amount of in-
terest after default in its payment, in the order in
which such interest shall have become due, rateably
to the person holding the bonds, or coupons evi-
dencing the right to such interest, and without dis-
crimination or preference between them on account
of the time of the actual issue of said bonds, and in
the next place, to the payment of such interest
198 accruing or becoming due, during such possession
of the Trustee or Trustees, in the order in which
such interest shall fall due, rateably, and without
any preference of one bond or coupon over another,
save the said preference accorded to earliest ma-
turing coupons, and if, in any six months of the
possession by the Trustee or Trustees, after pay-
ment of all matured interest on the said bonds, a
surplus of net income arising as aforesaid shall
remain in the hands of the Trustee or Trustees, it
199 shall be lawful for the Trustee or Trustees to pay
over such surplus to the said party of the first part,
its successors or assigns, or as any Court of compe-
tent jurisdiction shall lawfully direct, and there-
upon to deliver possession of said Railroad and
other mortgaged premises to the party of the first
part, to be thenceforward possessed by it, subject
to the lien of this mortgage, and to the Trustee's
right again to take possession in case of future de-
fault entitling possession to be taken as hereinbe-
200 fore specified.

Fifth. In case default shall be made in the payment of any semi-annual instalment of interest, which may have accrued upon the said bonds within the aggregate amount of four million seven hundred thousand dollars hereby secured, or in the payment of such interest upon any of said bonds, when such interest shall have become or be due, and be demanded, and if any such interest, or any part thereof, shall remain unpaid and in arrear for the period of sixty days after demand thereof made, according to the tenor of the coupon representing the same or according to the tenor of the bond, or in case default shall be made in the payment of the principal of the said bonds hereby secured, or of any of such bonds, when such principal shall be due and payable, it shall be lawful for the said party of the second part, or its successor or successors in trust hereby created, either after entry made upon the mortgaged premises, as aforesaid, or without any such entry, either personally, or by attorney, or agent, duly constituted therefor by the said Trustee or Trustees, to sell and dispose of all and singular the said railroad and other premises, properties, rights and franchises, which shall then remain subject to the lien and operation of this Indenture of Mortgage, at public auction to the highest bidder, either in the City of New York, or in the City of Memphis, in the State of Tennessee, as the said Trustee or Trustees may, in its or their discretion, designate, and at such time as it or they may appoint therefor; provided, however, and it is hereby declared and agreed, that preparatory to such auction sale, as aforesaid, the said Trustee or Trustees shall give public notice of the time and place, when and where the same is to be made, and of the property to be sold, by advertisement in two newspapers, published in each of the States of Tennessee, Alabama, and Mississippi, and in two newspapers of good circulation, published in the City of New York, and that such advertisement shall be published in each of such newspapers, at least twice in each week, for the twelve successive weeks next previous to the day fixed for such sale, with the right, however, to the Trustee or Trustees, after such notice

201
202
203
204

205 shall have been so published, to adjourn the sale so advertised, from time to time in the discretion of the Trustee or Trustees, giving reasonable notices of such adjournment or adjournments, and after so adjourning, to make the sale at the time to which it may be finally adjourned. And it shall be lawful for the said Trustee or Trustees, and it or they are hereby expressly authorized and empowered, upon making any such auction sale of said mortgaged premises and property, rights and franchises as
206 above authorized, to make and deliver to the purchaser or purchasers thereof, at such sale, upon his or their paying the purchase money therefor, a good and sufficient deed or deeds of conveyance in the law of the same, which auction sale and the deed or deeds thereof made as above authorized, it is hereby granted, declared and agreed, shall be good and valid in the law, and shall operate to vest in the grantee or grantees in such conveyances the said railroad and branches and other mortgaged premises,
207 properties, rights and franchises, in fee simple and absolutely, and such deed or deeds shall operate to foreclose all equity of redemption of the said party of the first part, and its successors or assigns, and shall be a perpetual bar, both in law and equity, against the said party of the first part, its successors and assigns, and against any and all persons or corporations claiming or to claim such premises, properties, rights and franchises so sold and conveyed, or any part thereof, by, from, through or under
208 the said party of the first part or its successors or assigns.

AND IT IS FURTHER PROVIDED, DECLARED AND AGREED, that from the proceeds of such sale made as aforesaid, the said Trustee or Trustees shall be entitled in the first place to deduct and retain or pay for all proper charges or expenses of or incident

to such advertisement, foreclosure and sale and con- 209
veyance, including attorneys' and counsels' fees,
and any and all unreimbursed advances, expenses,
charges and liabilities which may have been prop-
erly made or incurred by such Trustee or Trustees
in maintaining or operating the said railroad, or in
managing the business of the same while it shall
have remained in the Trustees' possession, or in
arranging for and completing the sale aforesaid;
and also all payments which may have been
made by the Trustee or Trustees for taxes or 210
assessments, and for charges or liens prior to the
lien of this indenture, if any such there shall be,
on the said railroad and premises so sold, or any
part thereof, as well as the just and reasonable com-
pensation for the services of such trustee or trus-
tees in the premises, and the said trustee or trus-
tees shall apply the residue of the proceeds of such
sale, after the deductions and payments above
authorized to be first made thereout, to the pay-
ment of the principal of the said bonds within 211
the amount of four millions seven hundred thou-
sand dollars, by this mortgage secured, or intended
so to be, or of such of said bonds as may at that
time remain outstanding and unpaid, whether such
principal shall or shall not, by the terms or condi-
tions of said bond, have then fallen due and become
presently payable, and likewise to the payment of
the interest which shall have accrued up to that
time upon the principal of the said bonds hereby
secured, and which shall remain unpaid and prop- 212
erly payable with any interest accrued on such in-
terests after default, without discrimination or pre-
ference as between principal and interest, but rate-
ably according to the aggregate amount of such un-
paid principal and accrued and unpaid interest,
which payments shall be made to the persons
holding respectively the bonds and coupons evi-

213 dencing the right to such principal and interests,
without any discrimination or preference between
them on account of the time of the actual issuing
of the bonds or of the time of maturing of the in-
terest or principal, and always subject to and in
accordance with the special provisions hereinbefore
contained relating to the said fourteen hundred of
such bonds, numbers one to fourteen hundred in-
clusive, and it being understood and hereby de-
clared and agreed that upon any sale of said rail-
214 road and other mortgaged premises which may be
made as aforesaid, or upon any sale thereof made
under or by virtue of the judgment or decree of any
Court of competent jurisdiction rendered in any
suit or proceeding for the enforcement or foreclo-
sure of the lien created by this Indenture of Mort-
gage, the principal of all the then outstanding bonds
secured by these presents shall become and be im-
mediately due and payable. And it is further de-
clared and agreed that the receipt of the trustee
215 or trustees who shall make the sale hereinbefore
authorized shall be a sufficient discharge to the pur-
chaser or purchasers at such sale for his or their
heirs or assignee or personal representatives, shall
not, after paying such purchase money and receiv-
ing such trustee's receipt therefor be obliged to see
to the application of such purchase money upon or
for the trusts or purposes of these presents, or be in
anywise answerable for any loss, misapplication or
non-application of such purchase money by the
216 trustee or trustees.

And the said party of the first part doth hereby further covenant that it will, if and when thereunto requested, make, execute and deliver such deeds or other instruments as shall be reasonably advised by counsel to confirm and assure such title and ownership as aforesaid to such purchaser or purchasers at such sale made as above authorized so as fully to effectuate said sale.

And the said party of the first part for itself, its 217
successors and assigns, hereby agrees to waive, and
doth hereby absolutely and irrevocably waive and
relinquish the benefit or advantage of any and all
valuation, stay, or appraisement, extension or re-
demption law or laws, now existing or which may
hereafter be passed by either of the States of Ten-
nessee, Alabama and Mississippi, which but for this
provision, agreement and waiver might be applica-
ble to the sale hereinbefore authorized to be made
by the trustee or trustees of the said railroad and 218
other mortgaged premises, or to any judicial sale
which may be made of said mortgaged railroad and
premises, or any part thereof, under and in virtue
of the judgment or decree of any competent Court
in a suit instituted for the foreclosure of this mort-
gage or for enforcement of the lien by this inden-
ture created, and the said party of the first part for
itself, its successors or assigns, agrees to waive and
doth hereby irrevocably waive any and all right of
redemption which it might or could otherwise have 219
or be entitled to, under any present or future law
of either of the three States of Tennessee,
Alabama and Mississippi, upon or after or
in respect of any sale of the said hereby
mortgaged premises, properties, rights and
franchises, or any part thereof, which may be
made either by the Trustee or Trustees under the
power hereinbefore contained, or as a judicial sale
under order or decree of a court in a suit for fore-
closure of this mortgage or enforcement of its lien 220
as aforesaid, and the said party of the first part
hereby covenants that it will not in any manner set
up or seek to take the benefit or advantage of any
such present or future valuation, stay, appraisement,
extension or redemption law, to prevent or hinder
or delay the absolute and irredeemable sale of said
mortgaged premises, properties, rights and fran-

221 chises, as hereinbefore authorized to be made by the Trustees, or as might, but for such law, be directed or decreed by a court of competent jurisdiction.

AND IT IS HEREBY FURTHER PROVIDED, DECLARED AND AGREED, that in case of such auction sale as hereinbefore authorized being made by the party of the second part, or its successor or successors in the said trust, or in case of any judicial sale being made of the said railroad and other premises, 222 properties, rights, and franchises, hereby mortgaged or any part thereof, in enforcement of the mortgage lien hereby created, the purchaser or purchasers at such sale shall be entitled, in making settlement for and payment of the purchase money bidden at such sale, to turn in and use towards the payment of such purchase money, any of the bonds or coupons held by such purchaser or purchasers, to or towards the payment whereof the net proceeds of such sale shall be legally applicable, reckoning such bonds or cou- 223 pons for such purpose, at such sum as shall be payable out of the net proceeds of such sale to such purchaser or purchasers, as holder or holders of such bonds or coupons, for his or their just share or proportion, in that character, of such net proceeds of sale upon due apportionment of and accounting concerning such net proceeds, due receipts and acknowledgments being thereupon given by the holders of such bonds or coupons for the amount thus realized thereon, by means of turning in and using 224 the same as aforesaid, and said bonds or coupons being either delivered up to the person or persons making the sale, and entitled to receive payment of the purchase money, or due endorsement being made thereon of the amount so realized on account thereof.

Sixth. Whenever there shall have occurred such

continued default, in the payment of either interest 225
upon or principal of the bonds, secured by this Indenture
of Mortgage, or upon, or of any of such
bonds as in virtue of the preceding provisions of
this Indenture shall entitle the Trustee or Trustees
to proceed to advertise and sell the mortgaged premises
as aforesaid, it shall be obligatory upon the said
Trustees, upon being thereunto requested by the
holders of so many as one-third in amount of the
then outstanding bonds secured by this Indenture,
by an instrument or instruments in writing to such 226
effect, executed by such bondholders or their duly
authorized attorneys in fact, to proceed either to
assert the power of sale hereinbefore conferred upon
the Trustee, or to institute and carry on, with the
advice of competent attorneys and counsel, legal proceedings
in a court or courts of competent jurisdiction,
for the enforcement and protection of the rights
of the Trustees and the bondholders in the premises,
and for foreclosure of this mortgage, enforcement
of the lien thereof, and a judicial sale of said 227
mortgaged premises or properties, rights and franchises,
and immunities, it being hereby expressly
declared, granted, agreed and provided, that the
right to proceed by suit or suits, or other appropriate
legal proceedings in a court or courts of competent
jurisdiction shall exist, and is and shall be
in no wise prejudiced by the power of entry, or by
the power of sale, or any of the other provisions
hereinbefore contained, and it shall in the event of
such request by bondholders as aforesaid, be in the 228
discretion of the Trustee or Trustees, under the advice
of competent counsel, to adopt and pursue such one
of the two courses above mentioned as to such Trustee
or Trustees shall seem most expedient; PROVIDED,
HOWEVER, and it is a condition of the obligations
of the Trustee or Trustees to adopt either
course, or to take any steps for the fore-

229 closure or enforcement of this mortgage or any steps for entry into possession of the mortgaged premises under the power in that behalf hereinbefore contained, that the Trustee or Trustees before actually taking any such steps or proceedings of any kind, shall have the right to require the bondholders calling upon it or them so to do, to furnish to it or them reasonable indemnity for, and provision for the payment, as and when required of the costs, charges and expenses of, or
230 incident to such steps or proceedings.

Seventh. The trustee under this indenture, or its successor or successors, may at any time be removed from the trust, by instrument in writing under the hands and seals of the holders of a majority in amount of the then outstanding bonds secured hereby, or their attorneys in fact thereunto authorized.

AND IT IS FURTHER DECLARED, PROVIDED AND
231 AGREED, that in case a vacancy shall at any time exist in a trusteeship hereunder, by reason of removal, death or mental incapacity of the trustee or trustees for the time being, or either of them, or of the resignation of any such trustee accepted, in writing, by a majority in interest of the bondholders or by a court of competent jurisdiction, or of a vacancy in such trusteeship otherwise lawfully occurring and existing, a majority in amount of the holders of the then outstanding bonds, issued under
232 and secured by this indenture of mortgage, shall have the right and power, by instrument in writing under hand and seal, to appoint a new trustee or trustees, to fill such vacancy; and, in case the vacancy shall be caused by the party of the second part, or any corporation appointed in its place ceasing to be trustee, such vacancy may be so filled by the bondholders by the appointment, as trustee, of

another corporation having lawful power to execute such trust, or of one or more individual trustees; and until the appointment of a trustee or trustees, to fill any vacancy, shall have been made by the majority in amount of the said bondholders under the power in that behalf above contained, the Board of Directors, for the time being, of the party of the first part may appoint a new trustee or trustees to fill such vacancy for the time being; and in case of any vacancy being filled by such appointment by the Board of Directors, it shall be competent for any court of equitable powers, having jurisdiction in the premises, upon the application of any of the bondholders holding not less than five hundred thousand dollars in amount of such bonds, to annul such appointment, and appoint a trustee or trustees in place of the trustee or trustees so appointed by the directors, to hold the trust for the like term as he or they would have held the same under the appointment of the said directors, but no longer, and if the directors shall omit to fill the vacancy it may be filled by a court in the manner and with the effect last above provided and upon the like tenure. 233 234 235

And in case of any vacancy occurring and not being filled by a majority in amount of the bondholders, under the preceding provisions in that behalf, it shall be the duty of the president of the said railroad company to call a meeting, on a notice of at least three weeks, published once a week, for three successive weeks, in two newspapers, of good circulation, published in the City of New York, of the bondholders, to be held in the City of New York, to appoint a trustee or trustees to fill the vacancies so existing, or which shall have existed; but, nevertheless, such vacancy may be filled without waiting for and irrespective of any such meeting, by instrument or concurrent instruments, 236

237 under hand and seal of a majority in interest of such bondholders, and any appointment of a trustee or trustees to fill such vacancy existing or which shall have existed, whether made at such meeting, called as aforesaid, or otherwise, provided it be under the hands and seals of a majority in amount of the holders of the then outstanding bonds hereby secured, or their attorneys in fact thereunto authorized, but not otherwise, shall be valid and effectual, and shall supersede any previous ap-
238 pointment of a trustee, to fill such vacancy, which may have been made by the board of directors of the said company, or by a Court under any of the preceding provisions hereof.

AND IT IS HEREBY PROVIDED, DECLARED AND AGREED that the due appointment of a trustee or trustees, in any of the modes herein provided, shall be effectual to vest in such truestee or trustees the appropriate estate, rights,
239 powers and duties as herein provided in that behalf, without any new deed or conveyance; but, nevertheless, the said railroad company hereby covenants, in any and every such case, to make and execute, upon request, any such deeds, conveyances or assurances as may be appropriate for more fully and certainly vesting in and confirming to such new trustee such estate, rights, powers and duties, and in every case of resignation of a trustee, the resigning trustee shall, if requested, make and execute such deeds,
240 conveyances or assurances to his successor.

AND IT IS HEREBY FURTHER PROVIDED, DECLARED AND AGREED that whenever, and as often as any occasion shall arise in which the action of a majority in amount of the said bondholders, in pursuance of any power or provision herein contained, shall be called for or be appropriate, a meeting or meetings,

from time to time, of such bondholders, to be held 241
in the City of New York, may be called by the trustee under this indenture, or by such bondholders holding bonds to an aggregate amount of five hundred thousand dollars, upon notice of advertisement, published for not less than three weeks successively, at least once in each week, in two newspapers published in the City of New York, and that the expenses of calling, advertising and holding any such meeting, and of any adjournment thereof,
shall be a claim against and charge upon the trust 242
funds or property held in trust hereinunder, and shall be paid by the trustee out of any trust funds in its or their hands.

Eighth. The trustee or trustees hereunder shall be entitled to receive reasonable compensation for all services performed by it or them in or about the execution of the trusts hereby created. And it is hereby further provided, de-
clared and agreed that in case of the 243
trustee or trustees hereunder entering upon and taking possession of the said railroad and other mortgaged premises or property in consequence of default made by said railroad company, under or in pursuance of the power and authority in that behalf hereinbefore conferred upon the trustee, it shall be lawful and competent for such trustee or trustees to employ an agent or agents for the performance of any such duties, acts and things in and about
taking and maintaining such possession, and using, 244
operating and managing the said railroad, and collecting the income, earnings and profits thereof, and making repairs and improvements as above authorized, as such trustee or trustees may deem fit, and for the performance of any other acts in and about such possession and management, the performance whereof can be properly delegated to an agent; and

245 that such trustee or trustees, provided it or they shall have exercised reasonable prudence and care in the selection and employment of such agent or agents for any such purposes, shall not be responsible for losses or damages in the premises caused by the act, neglect or default of such agent or agents. But this provision is not intended, and shall not be construed, so as to exempt the trustee or trustees, in case of sale being made of the said mortgaged premises, from due responsibility to the bondhold-
246 ers hereby secured for the due application of the proceeds of such sale received, either by the trustee or trustees or by any agent or agents whom it or they may see fit to employ to receive such proceeds of sale.

Ninth. And this indenture further witnesseth that the said party of the first part, for the considerations aforesaid, has covenanted, promised and agreed, and does hereby covenant, promise and agree to and
247 with the said party of the second part, and its successors in the trust hereby created, that the said party of the first part and its successors shall and will well and truly pay or cause to be paid unto the respective holders of the said bonds for four million seven hundred thousand dollars, issued under and secured by this mortgage, the principal thereof and the interest thereon, as the same shall from time to time become payable, according to the tenor of said bonds and the coupons accompanying
248 the same respectively.

AND the said party of the first part, for the consideration aforesaid, doth hereby covenant and agree to and with the said party of the second part and its suceessor or successors, as Trustee, and likewise to and with the holders, from time to time, of the several bonds issued under and secured by this Indenture, that

the said party of the first part, its successors and 249
assigns, shall and will, from time to time, and at all times hereafter, upon reasonable request, make, do, execute, acknowledge and deliver all such further acts, deeds, conveyances and assurances in the law, for the better and more effectually assuring, conveying and confirming unto the said Trustee and its successors or successor in the trust hereby created upon the trusts and for the uses and purposes herein expressed or intended, all and singular the rail-
road and equipment, premises, properties, rights 250
and franchises hereby mortgaged or conveyed in trust, or agreed, or purporting or intended so to be, whether now owned or possessed by or vested in said party of the first part, or subsequently acquired by or vested in it, as by such Trustee or Trustees or bondholders, under the advice of counsel, shall be reasonably advised, devised or required.

And whereas, it is intended that the said party 251
of the second part hereto shall be the Trustee to whom in trust for the security and benefit of the holders of the said fourteen hundred bonds, numbers one to fourteen hundred, inclusive, shall be assigned by Adrian Iselin and Adrian Iselin, Junior, the above-mentioned indebtedness of the said Railroad Company originally existing in favor of the State of Tennessee, and the State's lien therefor assigned to said Adrian Iselin and Adrian Iselin,
Junior, as aforesaid, it is hereby declared and 252
agreed that such circumstance of the said party of the second part being so made Trustee of such special trust created and special and additional security so given for the special, separate and exclusive benefit of the holders of said fourteen hundred bonds, numbers one to fourteen hundred, inclusive, shall not be deemed in any wise inconsistent

253 with the Trusteeship or position of the said party of the second part as Trustee hereunder for all said bondholders; and such Trusteeship of the party of the second part hereunder shall in no wise detract from, affect or impair the special and exclusive rights and securities of the holders of said fourteen hundred bonds, held by them through the Trusteeship of the party of the second part hereto, for their separate use and benefit under such trust created by said Adrian Iselin and Adrian Iselin,
254 Junior.

And the said party of the second part doth hereby accept the trusts hereby created. And the said party of the second part, as Trustee hereunder, and its successors, are hereby released from executing the bond required from Trustees by the laws of Tennessee, Alabama or Mississippi, respectively, and from giving any bond or security as Trustee or Trustees under this indenture.

255 In witness whereof the said party of the first part, in pursuance of a resolution of its Board of Directors, hath hereto affixed its corporate seal, and caused the same to be attested by its President and Secretary; and the said party of the second part, in pursuance of authority of its Board of Directors, hath hereto affixed its corporate seal, and caused the same to be attested by its President and Secretary, the day and year first above written.

256 The Memphis and Charleston Railroad Co.
By R. T. WILSON, *President.*
[Seal.]
The Memphis and Charleston Railroad Co.
By S. R. CRUSE, *Secretary.*

Farmers Loan and Trust Co.
By R. G. ROLSTON, *President.*
[Seal.]

STATE OF NEW YORK, } ss: 257
City and County of New York,

Be it remembered, that on this 20th day of
August, A. D. 1877, before me, **Charles Nettleton**,
a Commissioner of Deeds of the State of Tennessee
in and for the State of New York, residing
in said City of New York, personally appeared
Richard T. Wilson, to me personally known and
known to me to be the President of the Memphis
and Charleston Railroad Company, the grantor described
in and who executed the foregoing instrument, 258
and being by me duly sworn, did personally
depose and say: That he was such President of the
said Memphis and Charleston Railroad Company,
that the seal affixed to the foregoing instrument, purporting
to be the corporate seal of said Company is
the corporate seal of said Company, and was thereunto
affixed by said authority of the said corporation,
and that he subscribed his name thereto as such
President by like authority—and the said **Richard
T. Wilson**, President of said Memphis and Charleston 259
Railroad Company, the bargainor in the foregoing
instrument, with whom I am personally acquainted,
also acknowledged that he executed the
foregoing instrument for the purposes therein contained
as his own act and deed as such President
and the act and deed of said Company. And on
the same day before me also personally appeared
Roswell G. Rolston, to me personally known
and known to me to be the President of the Farmers'
Loan and Trust Company of New York, and 260
being by me duly sworn, did depose and say: That
he was the President of said Farmers' Loan and
Trust Company, New York; that the seal affixed
to the foregoing instrument, purporting to be the
corporate seal of that Company, is the corporate
seal of that Company, and was thereunto affixed by
said authority of said corporation, and that he sub-

261 scribed his name thereto as such President by like authority. And the said ROSEWELL G. ROLSTON, the President of the said Farmers' Loan and Trust Company of New York, Trustee in the foregoing instrument named, with whom I am personally acquainted, also acknowledged that he had executed the foregoing instrument for the purposes therein contained as his own act and deed as such President, and the act and deed of said Company.

262 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 20th day of August, A. D. 1877.

[L.S.] CHARLES NETTLETON,
Commissioner for Tennessee in New York,
117 Broadway, New York City.

---

263 STATE OF NEW YORY,
City and County of New York, } ss:

BE IT REMEMBERED, that on this 20th day of August, A. D. 1877, before me, CHARLES NETTLETON, a Commissioner of Deeds of the State of Mississippi, in and for the State of New York, residing in said City of New York, personally appeared RICHARD T. WILSON, to me personally known, and known to me to be the President of the Memphis and Charleston Railroad Company, the grantor described in, and who executed the foregoing instru- 264 ment; and being by me duly sworn, did personally depose and say: That he was such President of the said Memphis and Charleston Railroad Company; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said Company, is such corporate seal, and was thereunto affixed by said authority of said corporation, and that he sub-

scribed his name thereto as such President by like 265
authority; and the said RICHARD T. WILSON also acknowledged that he signed, sealed and delivered the foregoing instrument as his act and deed as such President, and the act and deed of said Company. And on the same day before me also personally appeared ROSEWELL G. ROLSTON, to me personally known, and known to me to be the President of the Farmers' Loan and Trust Company of New York, and being by me duly sworn, did personally depose and say: That he was the President 266
of the said Farmers' Loan and Trust Company of New York; that the seal affixed to the foregoing instrument, purporting to be the corporate seal of that Company, is the corporate seal of that Company, and was thereto affixed by said authority of said corporation, and that he subscribed his name thereto as such president by like authority; and the said Rosewell G. Rolston also acknowledged that he signed, sealed and delivered the foregoing instrument as such president as the act and 267
deed of said company, and his own act and deed as such president.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal this 20th day of August, A.D. 1877.

[L.S.] CHARLES NETTLETON,
Commissioner for Mississippi in New York,
117 Broadway, New York City.

268

STATE OF NEW YORK,
City and County of New York. } ss.

BE IT REMEMBERED, that on the 20th day of August, A.D. 1877, before me, Charles Nettleton, a Commissioner of Deeds of the State of Alabama in and for the State of New York, residing in said

269 City of New York, personally appeared RICHARD T.
WILSON, to me personally known, and known to me
to be the President of the Memphis and Charleston
Railroad Company, the grantor described in, and
who executed the foregoing instrument, and, being
by me duly sworn, did personally depose and say:
That he was such President of the said Memphis
and Charleston Railroad Company, that the seal
affixed to the foregoing instrument, purporting to
be the corporate seal of said company, is the corporate
270 seal of said company, and was thereunto affixed
by said authority of the said corporation, and that
he subscribed his name thereto as such president by
like authority; and the said RICHARD T. WILSON,
whose name is signed to the foregoing instrument,
and who is known to me, acknowledged before me
on this day that, being informed of the contents of
said instrument, he executed the same voluntarily,
on the day the same bears date, as his act and deed
as such president, and the act and deed of said
271 company. And on the same day before me also
personally appeared ROSEWELL G. ROLSTON, to me
personally known, and known to me to be the President
of the Farmers Loan and Trust Company of
New York, the trustee described in, and who executed
the foregoing instrument, and, being by me
duly sworn, did personally depose and say that he
was such President of the said Farmers Loan and
Trust Company; that the seal affixed to the foregoing
instrument, purporting to be the corporate
272 seal of said company, is the corporate seal of said
company, and was thereunto affixed by said authority
of the said corporation, and that he subscribed
his name thereto as such president by like
authority. And the said Rosewell G. Rolston,
whose name is signed to the foregoing instrument,
and who is known to me, acknowledged before me
on this day, that being informed of the contents of

said instrument, he executed the same voluntarily on the day the same bears date, as his act and deed as such president, and the act and deed of said company. 273

In witness whereof, I have hereunto set my hand and affixed my official seal this 20th day of August, A.D. 1877.

[L.S.] CHARLES NETTLETON,
Commissioner for Alabama in New York.
117 Broadway, New York City. 274

RESPONDENT'S EXHIBIT No. 2.

W. H. D. L., *Sp'l Ex'r.*

An Indenture, made this twenty-first day of August, eighteen hundred and seventy-seven, between Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Company, of the City of New York, parties of the first part; The Farmers' Loan and Trust Company, a corporation created by the laws of the City of New York, party of the second part, and The Memphis and Charleston Railroad Company, a corporation created and organized by and under the laws of the respective States of Tennessee and Alabama and Mississippi, party of the third part. 275

Whereas, the said The Memphis and Charleston Railroad Company heretofore became indebted to the State of Tennessee for and in respect of the bonds of that State, loaned or advanced or delivered to or in aid of the said Railroad Company, under and in pursuance of the General Internal Improvement laws and other laws of that State, and for the amount of which indebtedness the State of Tennes- 276

277 see held a statutory first lien in the nature of a mortgage on all that part of the railroad, as well branch as main line of the said The Memphis and Charleston Railroad Company, which is situated in the said State of Tennessee, with the lands and premises thereunto appertaining, and the rolling stock or equipment and other appurtenances thereof, and the other property of said Railroad Company, situated in the said State of Tennessee.

278 And whereas, under and in pursuance of and in accordance with the sixth and seventh sections of the Act of the Legislature of the State of Tennessee, entitled "An Act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee," passed February 25th, 1869, and the other laws of said State of Tennessee in that behalf, the said the Memphis and Charleston Railroad Company and the Board of Directors thereof heretofore gave their approbation and consent in writing, that
279 the said Adrian Iselin and Adrian Iselin, Junior, might pay, so far as the State of Tennessee was concerned, the amount of the said indebtedness of the said Railroad Company to said State of Tennessee, and coupons of such bonds at par, as provided for by the laws of the said State of Tennessee in that behalf, and that they might thereby and thereupon become substituted and entitled to all the liens against said Company for the payment of said debt, which the said State of Tennessee had by law, as by
280 the sixth section of the Act aforesaid is provided; and further, the said Adrian Iselin and Adrian Iselin, Junior, should thereupon, as provided for by seventh section of the Act aforesaid, be entitled to have and to hold all the lien or liens which the said State of Tennessee had upon said railroad or its property, and should have the same right to enforce the same which the said State of Tennessee

had, the object and intent being thereby declared to 281
be to place the said Adrian Iselin and Adrian Iselin, Junior, so paying the amount of the debt of the said Railroad Company to the State in the same position and with the same rights which the said State of Tennessee had previous to and before the said payment, and with full power to enforce the same, and on or about the twenty-fifth day of July, eighteen hundred and seventy-seven, certified copies of the resolutions of the Board of Directors of the said Railroad Company under its corporate seal, 282
were duly filed with the Treasurer of said State of Tennessee, copies of which resolutions and of which instrument so executed by said railroad company under and in pursuance thereof, under said Company's corporate seal, are as follows, that is to say: In the copy of the instrument hereinafter executed by said Company under its seals, the signatures and seals do not appear, but the same were duly affixed thereto, the instrument so executed being in the form and to the effect set forth in the said resolution 283
authorizing the same.

I, Marshall T. Polk, Treasurer of the State of Tennessee, do hereby certify that Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Company, have this day, in pursuance of the sixth and seventh sections of the Act of the Legislature of Tennessee, entitled "An Act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee," passed Feb- 284
ruary 25th, 1869, filed in my office certified copies of certain resolutions of the Board of Directors of the Memphis and Charleston Railroad Company, and a certain written consent and agreement of said Memphis and Charleston Railroad Company under its corporate seal, duplicate copies of which resolutions and consent and agreement are hereunto annexed.

285 Given under my hand and official seal this twenty-fifth day of July, eighteen hundred and seventy-seven.

MARSHALL T. POLK, *Treasurer.*

At a meeting of the Board of Directors of the Memphis and Charleston Railroad Company, held in the City of Memphis, on the thirty-first day of May, eighteen hundred and seventy-seven,

286 Present—R. T. Wilson, President; C. M. McGhee, Vice-President; Messrs. J. R. Mosby, Jerome Hill, W. S. Hastie, Napoleon Hill, W. W. Garth, J. D. Rather and George P. Bierne. Upon motion of Mr. Napoleon Hill, duly seconded, it was resolved, all the members of the Board present voting in favor thereof, except George P. Bierne, as stated in the three resolutions next following, viz.:

287 *Resolved*, That this board hereby gives its consent and approbation, and that of the company, that Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Company, of the City of New York, may, so far as the State of Tennessee is concerned, pay this company's indebtedness to the State of Tennessee for or in respect of the Tennessee State bonds heretofore loaned or delivered to or in aid of this company, and for which the State has a lien in Tennessee State bonds or coupons thereof, as
288 provided for by the Act of the Legislature of Tennessee in that behalf, approved February 25th, 1869, and the Acts amendatory thereof, or supplementary thereto, and that by such payment said A. Iselin & Company shall acquire and be entitled to the rights, liens and securities in that behalf, provided for by the sixth and seventh sections respectively of the said Act of February 25th, 1869.

Resolved, That the President and Secretary of this company be and are hereby authorized and directed to execute, under this company's corporate seal, and with their signatures as such President and Secretary, an instrument substantially of the form and effect following, in duplicate, and deliver the same to said A. Iselin & Co., one copy thereof being intended to be filed with the State Treasurer of Tennessee, as follows, that is to say: 289

KNOW ALL MEN BY THESE PRESENTS, that whereas the Memphis and Charleston Railroad Company is indebted to the State of Tennessee, for or in respect of the amount of the bonds of the said State which were loaned or advanced or delivered to or in aid of said railroad company under the general internal improvement laws of said State, or other laws of said State, in that behalf, and for which indebtedness of said railroad company the said State holds a lien upon said company's railroad in the State of 290
Tennessee, and other property of said company, 291
as provided by law, which indebtedness is for the amount of bonds of said State of Tennessee, originally loaned, issued or delivered to or in aid of said railroad company, and for the amount of certain Tennessee State bonds issued to fund or provide for certain interest upon those bonds; which during a certain period the said railroad coupons failed to provide for; the aggregate amount of principal of such bonds,
including those so issued for funding inter- 292
est, after deducting and giving credit for the amount heretofore paid on account by the railroad company to the sinking fund, being sixteen hundred and seventy-one thousand seven hundred dollars, be the same more or less, upon which principal there is due from the Railroad Company to the State about fif-

293 teen thousand dollars for interest due on the first day of January last; and interest has accrued and is accruing upon the whole amount of said principal from the first day of January last, and such interest for six months will fall due on the first day of July next.

Now, THIS INSTRUMENT which is executed by the said the Memphis and Charleston Railroad Company, under its corporate seal, in pursuance of a
294 resolution of the Board of Directors of said railroad company specially authorizing the same; duly passed at a meeting of said Board duly held on the thirty-first day of May instant,

WITNESSETH that the said the Memphis and Charleston Railroad Company, and the Board of Directors of said company, respectively have given and do give its and their consent and approbation, under and in pursuance of the Act of the Legisla-
295 ture of the State of Tennessee, entitled "An Act to Liquidate the State Debt contracted in aid of Railroad Companies in the State of Tennessee," passed the twenty-fifth day of February, eighteen hundred and sixty-nine, and the Acts of such Legislature in amendment thereof or supplementary thereto, that Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Co., of the City of New York, may, so far as the State of Tennessee is concerned, pay the indebtedness of the Memphis
296 and Charleston Railroad Company to the State of Tennessee for or in respect of the amount of bonds of said State which were heretofore loaned or advanced or delivered to or in aid of said railroad company, which indebtedness is that hereinbefore referred to; and that such payment of such indebtness may be so made by said Adrian Iselin and Adrian Iselin, Junior, in the bonds of the State of

Tennesssee, or coupons of such bonds, at par, as 297
allowed by the laws of said State in that behalf;
and that said Adrian Iselin and Adrian Iselin,
Junior, may and shall, upon so paying such indebtedness, to be substituted and entitled to all the liens
against said railroad company, and against its
property, for the payment of such indebtness that
the State of Tennessee had or has by law; and that
said Adrian Iselin and Adrian Iselin, Junior, upon
so paying such indebtedness, may receive from the
Governor and Secretary of State of Tennessee such 298
certificate in that behalf as is provided for by the
sixth section of the above mentioned Legislative
Act of the twenty-fifth day of February, eighteen
hundred and sixty-nine. And under and in pursuance of the seventh section of the Act last above
mentioned, the said the Memphis and Charleston
Railroad Company, and the Board of Directors of
said company, do hereby further respectively
assent and agree that said Adrian Iselin
and Adrian Iselin, Junior, upon so paying 299
the aforesaid indebtedness of the Memphis
and Charleston Railroad Company, to the State
of Tennessee, so far as said State is concerned, in
the bonds or coupons of said State as aforesaid,
may and shall, upon filing with the Treasurer of the
State of Tennessee this instrument, executed under
the corporate seal of said company, be entitled to
have and hold all the lien or liens which the State
of Tennessee had or has upon the railroad of said
Memphis and Charleston Railroad Company, or its 300
property, and shall have the same right to enforce
the same which the State of Tennessee had, the object and intent being (and being or hereby declared),
in accordance with the seventh section of the said
Act of the twenty-fifth day of February, eighteen
hundred and sixty-nine, to place the said Adrian
Iselin and Adrian Iselin, Junior, so paying such in-

301 debtedness, with the consent of said railroad company, in the same position and with the same rights which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same.

In Witness whereof the said the Memphis and Charleston Railroad Company, in pursuance of a resolution of its Board of Directors as aforesaid, hath hereunto affixed its corporate seal, and caused 302 these presents to be executed on its behalf by its President and Secretary, the thirty-first day of May, eighteen hundred and seventy-seven. And this Board hereby agrees and gives its consent and approbation to everything stated or contained in the instrument above directed to be executed and delivered to said A. Iselin & Co.

Resolved, That the secretary be directed to furnish to A. Iselin & Co., in duplicate, copies certified 303 by him of these resolutions.

I hereby certify that the foregoing is a true copy from the minutes of a meeting of the Board of Directors of the Memphis and Charleston Railroad Company, held in the city of Memphis, Tennessee, on the thirty-first day of May, eighteen hundred and seventy.

S. R. Cruse,
Secretary and Treasurer of the Memphis
304 (Seal.) *and Charleston Railroad Co.*

Know all Men by these Presents, that whereas the Memphis and Charleston Railroad Company is indebted to the State of Tennessee, for or in respect to the amount of the bonds of the said State which were loaned or advanced or delivered to or in aid of said railroad company under the General

317 State of Tennessee, }
County of Shelby. }

Personally appeared before me Hudson Cary,
Notary Public in and for said county, duly com-
missioned and qualified, S. R. Cruse, Secretary and
Treasurer of the Memphis and Charleston Railroad
Company, who is personally known to me both in
his person and as such Secretary and Treasurer,
who, being duly sworn, deposes and says and ac-
knowledges that he executed the foregoing instru-
318 ment, being acquainted with its contents, for the
purposes therein stated, in the interest and on the
behalf of the Memphis and Charleston Railroad
Company, and under authority granted him by re-
solution of the Board of Directors of said Company,
passed at a meeting of said Board of Directors on
the thirty-first day of May, eighteen hundred and
seventy-seven.

Witness my hand and notarial seal this
319 June ninth, A. D. eighteen hun-
dred and seventy-seven.

Hudson Cary,
Notary Public.

And whereas, thereupon, the said Adrian Iselin
and Adrian Iselin, Junior, with such consent and
approbation of the said Railroad Company and of
its Board of Directors, and in the manner and with
320 the effect so consented to, and under and in pur-
suance of, and in accordance with, the said sixth
and seventh sections of the aforesaid Acts of Feb-
ruary 25th, 1869, and the other laws of the said
State of Tennessee in that behalf, paid to the said
State of Tennessee, in the bonds of said State and
coupons of such bonds at par, as allowed by law,
the amount of the aforesaid indebtedness of the

301 debtedness, with the consent of said railroad company, in the same position and with the same rights which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same.

In Witness whereof the said the Memphis and Charleston Railroad Company, in pursuance of a resolution of its Board of Directors as aforesaid, hath hereunto affixed its corporate seal, and caused
302 these presents to be executed on its behalf by its President and Secretary, the thirty-first day of May, eighteen hundred and seventy-seven. And this Board hereby agrees and gives its consent and approbation to everything stated or contained in the instrument above directed to be executed and delivered to said A. Iselin & Co.

Resolved, That the secretary be directed to furnish to A. Iselin & Co., in duplicate, copies certified
303 by him of these resolutions.

I hereby certify that the foregoing is a true copy from the minutes of a meeting of the Board of Directors of the Memphis and Charleston Railroad Company, held in the city of Memphis, Tennessee, on the thirty-first day of May, eighteen hundred and seventy.

S. R. Cruse,
Secretary and Treasurer of the Memphis
304 (Seal.) *and Charleston Railroad Co.*

Know all Men by these Presents, that whereas the Memphis and Charleston Railroad Company is indebted to the State of Tennessee, for or in respect to the amount of the bonds of the said State which were loaned or advanced or delivered to or in aid of said railroad company under the General

Internal Improvement Laws of said State, or other 305
laws of said State, in that behalf, and for which indebtedness of said railroad company the said State holds a lien upon said company's railroad in the State of Tennessee, and other property of said company, as provided by law, which indebtedness is for the amount of bonds of said State of Tennessee, originally loaned, issued or delivered in aid of said railroad company and for the amount of certain Tennessee State bonds issued to fund or provide for
certain interest upon those bonds, which during a 306
certain period the said railroad company failed to provide for; the aggregate amount of principal of such bonds, including those so issued for funding interest, after deducting and given credit for the amount heretofore paid on account by the railroad company to the sinking fund, being sixteen hundred and seventy one thousand seven hundred dollars, be the same more or less, upon which principal there is due from the railroad company to the
State about fifteen thousand dollars for interest due 307
on the first day of January last; and interest has accrued and is accruing upon the whole amount of said principal from the first day of January last, and such interest for six months will fall due on the first day of July next.

Now, THIS INSTRUMENT, which is executed by the said The Memphis and Charleston Railroad Company under its corporate seal; in pursuance of a re-
solution of the Board of Directors of said railroad 308
company, specially authorizing the same, duly passed at a meeting of the said board, duly held on the 31st day of May, instant.

WITNESSETH, That the said The Memphis and Charleston Railroad Company, and the Board of Directors of said company respectively, have given,

309 and do give its and their consent and approbation, under and in pursuance of the Act of the Legislature of the State of Tennessee, entitled "An Act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee," passed February 25th, 1869, and the Acts of such Legislature in amendment thereof, or supplementary thereto, that Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Compay, of the the city of New York, may, so far as the State of
310 Tennessee is concerned, pay the indebtedness of the Memphis and Charleston Railroad Company to the State of Tennessee for or in respect of the amount of bonds of said State, which were heretofore loaned or advanced or delivered to or in aid of said railroad company, which indebtedness is that herein before referred to, and that such payment of said indebtedness may be so made by said Adrian Iselin and Adrian Iselin, Junior, in the bonds of the State of Tennessee or coupons of such bonds at par, as
311 allowed by the laws of said State in that behalf, and that said Adrian Iselin and Adrian Iselin, Junior, may and shall, and upon so paying such indebtedness be substituted and entitled to all the liens against said railroad company and against its property for the payment of such indebtedness that the State of Tennessee had or has by law; and that said Adrian Iselin and Adrian Iselin, Junior, upon so paying such indebtedness may receive from the Governor and Secretary of State of Tennessee such certificate
312 in that behalf as is provided for by the sixth section of the above-mentioned Legislative Act of February 25th, 1869.

And under and in pursuance of the seventh section of the Act last above-mentioned the said The Memphis and Charleston Railroad Company, and the Board of Directors of said Company, do hereby further respectively assent and agree that

said Adrian Iselin and Adrian Iselin, Junior, upon 313
so paying the aforesaid indebtedness of the Memphis and Charleston Railroad Company to the State of Tennessee, so far as the said State is concerned, in the bonds or coupons of said State, as aforesaid, may and shall, upon filing with the Treasurer of the State of Tennessee this instrument, executed under the corporate seal of said Company, be entitled to have and hold all the lien or liens which the State of Tennessee had or has upon the Railroad of said Memphis and Charleston Railroad Company or its 314
property, and shall have the same right to enforce the same which the State of Tennessee had, the object and intent being (and being so hereby declared) in accordance with the seventh section of the said Act of February 25th, 1869, to place said Adrian Iselin and Adrian Iselin, Junior, so paying such indebtedness, with the consent of said Railroad Company, in the same position and with the same rights which the State of Tennessee had previous to and before the said payment, and with full power to en- 315
force the same.

IN WITNESS WHEREOF, the said The Memphis and Charleston Railroad Company, in pursuance of a resolution of its Board of Directors, as aforesaid, have hereunto affixed its corporate seal and caused these presents to be executed on its behalf by its President and Secretary, the thirty-first day of May, eighteen hundred and seventy-seven.

316

THE MEMPHIS AND CHARLESTON RAILROAD CO.,
BY R. T. WILSON,
President.

THE MEMPHIS AND CHARLESTON RAILROAD CO.,
[L. S.] BY S. R. CRUSE,
Secretary and Treasurer.

317 STATE OF TENNESSEE, }
County of Shelby. }

Personally appeared before me Hudson Cary, Notary Public in and for said county, duly commissioned and qualified, S. R. Cruse, Secretary and Treasurer of the Memphis and Charleston Railroad Company, who is personally known to me both in his person and as such Secretary and Treasurer, who, being duly sworn, deposes and says and acknowledges that he executed the foregoing instrument, being acquainted with its contents, for the 318 purposes therein stated, in the interest and on the behalf of the Memphis and Charleston Railroad Company, and under authority granted him by resolution of the Board of Directors of said Company, passed at a meeting of said Board of Directors on the thirty-first day of May, eighteen hundred and seventy-seven.

319 Witness my hand and notarial seal this June ninth, A. D. eighteen hundred and seventy-seven.

HUDSON CARY,
Notary Public.

AND WHEREAS, thereupon, the said Adrian Iselin and Adrian Iselin, Junior, with such consent and approbation of the said Railroad Company and of its Board of Directors, and in the manner and with 320 the effect so consented to, and under and in pursuance of, and in accordance with, the said sixth and seventh sections of the aforesaid Acts of February 25th, 1869, and the other laws of the said State of Tennessee in that behalf, paid to the said State of Tennessee, in the bonds of said State and coupons of such bonds at par, as allowed by law, the amount of the aforesaid indebtedness of the said The Memphis and Charleston Railroad Company to the said State of Tennessee for or in respect of the amount of the bonds of the State of Tennessee, which, under the General Improvement law, passed February 11, 1852, and the other Acts of the Legislature of that State, were originally loaned, issued or delivered to or in aid of said company, and for the amount of certain Tennessee State bonds, issued to fund or provide for certain interest upon these bonds before mentioned, which, during a certain period, the said railroad company failed to provide for the aggregate amount of principal of said State bonds, including those so issued for funding interest, after deducting and giving credit for the amount theretofore paid on account by the said railroad company to the sinking fund, being one million six hundred and seventy-one thousand nine hundred and sixteen dollars twenty-five cents ($1,671,916.25), and there being also due by said railroad company to the State for interest accrued thereon, up to the first day of July, eighteen hundred and seventy-seven, the sum of sixty-four thousand nine hundred and ninety dollars ($64,-990), making the whole amount of such indebtedness of said railroad company to the said State of Tennessee, and for which the said State held a lien as aforesaid, the sum of one million seven hundred and thirty-six thousand nine hundred and six dollars and twenty-five cents ($1,736,906.25) as of the first day of July, eighteen hundred and seventy-seven, and so much whereof as was principal bore interest from that date at the rate of six per cent. per annum, whereupon the said Adrian Iselin and Adrian Iselin, Junior, under and in pursuance of, and in accordance with, the statutes of the said State of Tennessee in that behalf became assignees of the said indebtedness of one million seven hundred and

321 322 323 324

325 thirty-six thousand nine hundred and six dollars and twenty-five cents ($1,736,906.25), owing from the said The Memphis and Charleston Railroad Company to the said State of Tennessee, with the interest thereon accrued and to accrue from and after the first day of July, eighteen hundred and seventy-seven, and became substituted and entitled to all the liens against said Railroad Company for the payment of said debt that the said State of Tennessee had by law and became entitled, as provided by the 326 seventh section of the Act aforesaid, to have and to hold all the lien or liens which the said State of Tennessee had upon the said railroad or its property, and the same right to enforce the same which the said State of Tennessee had, and the said Adrian Iselin and Adrian Iselin, Junior, under and in pursuance of the said seventh section of the Act aforesaid, were thereupon placed in the same position and with the same rights which the State of Tennessee had previous to and before the said payment, 327 and with full power to enforce the same; and thereupon the said Adrian Iselin and Adrian Iselin, Junior, received from the Governor and the Secretary of State of the the State of Tennessee their certificate in writing, as provided for by the said sixth and seventh sections of the Act aforesaid, a copy of which said certificate is as follows—that is to say:

We, James D. Porter, Governor of the State of Tennessee, and Charles N. Gibbs, Secretary of State 328 of the State of Tennessee, do hereby certify, that Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Co., of the City of New York, have this day filed with the Treasurer of the State of Tennessee the written consent of the Board of Directors of the Memphis and Charleston Railroad Company, and likewise the written assent and approbation of the said The Memphis and Charleston

Railroad Company, under the corporate seal of the 329
said Railroad Company, that the said Adrian Iselin
and Adrian Iselin, Junior, composing the firm of A.
Iselin & Co., may, under and in pursuance of the
sixth and seventh sections of the Act of the Legislature
of the State of Tennessee, entitled "An Act
to Liquidate the State Debt contracted in aid of
Railroad Companies in the State of Tennessee,"
passed the twenty-fifth day of February, eighteen
hundred and sixty-nine, and the Acts of such Legislature
in amendment thereof or supplementary 330
thereto, pay, so far as the State of Tennessee is
concerned, in bonds of the State of Tennessee, or
coupons of such bonds, at par, as by law of the
State of Tennessee is authorized, the amount of the
indebtedness hereinafter mentioned of the said
Memphis and Charleston Railroad Company to the
State of Tennessee; and that said Adrian Iselin and
Adrian Iselin, Junior, composing the firm aforesaid,
shall thereby and thereupon, as provided
by the sixth section of said Act, be substituted 331
and entitled to all the liens against
said Company for the payment of said debt that
the State of Tennessee had or has by law, and shall
thereby and thereupon, as provided by the seventh
section of said Act, be entitled to have and hold all
the lien or liens which the State of Tennessee had
or has upon said railroad, or its property, and shall
have the same right to enforce the same which the
State of Tennessee had, the object and intent being
thereby declared to be to place the said Adrian 332
Iselin and Adrian Iselin, Junior, so paying, with the
consent of said Railroad Company, in the same position,
and with the same rights, which the State of
Tennessee had previous to and before the said payment,
and with full power to enforce the same.

AND WE DO FURTHER CERTIFY that the said

333 Adrian Iselin and Adrian Iselin, Junior, composing
the firm of A. Iselin & Co., have thereupon,
with the consent and approbation of the said Railroad
Company, and of the Board of Directors
thereof, and under and in pursuance of and in accordance
with the said sixth and seventh sections of
the aforesaid Act of the twenty-fifth day of February,
eighteen hundred and sixty-nine, and the other
laws of the State of Tennessee, in that behalf paid to
to the State of Tennessee, in the bonds of said
334 State, and coupons of such bonds, at par, as allowed
by law, the amount of indebtedness of the said The
Memphis and Charleston Railroad Company to the
State of Tennessee, and for which the State of Tennessee
holds a lien by law upon said company's
railroad in the State of Tennessee, and other property,
which indebtedness is for or in respect of the
amount of the bonds of the State of Tennessee which
under the general improvement law passed the eleventh
day of February, eighteen hundred and fifty-two,
335 and the other Acts of the Legislature of said
State, were originally loaned, issued, or delivered
to or in aid of said company, and for the amount of
certain Tennessee State bonds issued to fund or provide
for certain interest upon those bonds, which
during a certain period the said railroad company
failed to provide, the aggregate amount of the principal
of such State bonds, including those so issued
for funding interest, after deducting and giving credit
for the amount heretofore paid on account by the
336 railroad company to the sinking fund being sixteen
hundred and seventy-one thousand nine hundred
and sixteen dollars and twenty-five cents ; as also
the further amount of sixty-four thousand nine
hundred and ninety dollars for interest accrued up
to the first day of July, instant, upon the beforementioned
amount of sixteen hundred and seventy-one
thousand nine hundred and sixteen dollars and

twenty-five cents, making the whole amount of 337
such indebtedness of said railroad company to the
State of Tennessee, and for which the State holds a
lien as aforesaid, the aggregate sum of seventeen
hundred and thirty-six thousand nine hundred and
thirty-six dollars and twenty-five cents; exclusive
of interest accrued since the first day of July,
instant, which aggregate sum or amount, together
with the interest accrued thereon since the first day
of July, instant, the said Adrian Iselin and Adrian
Iselin, Junior, composing the firm of A. Iselin & 338
Co., have this day, in the manner and under the
circumstances aforesaid, paid to the State of Tennessee, in Tennessee State bonds and coupons at
par, as allowed by the laws of said State; and we
do further certify and declare that thereupon, and
under and in pursuance of the sixth and seventh
sections of the said act of the twenty-fifth day of
February, eighteen hundred and sixty-nine, and the
other Acts of the Legislature of the State of Tennessee in that behalf, the said Adrian Iselin and Adrian 339
Iselin, Junior, composing the firm of A. Iselin & Co.,
have become and are the purchasers and assignees
of the above-mentioned indebtedness of the Memphis and Charleston Railroad Company to the State
of Tennessee, with all the liens held by the said
State therefor, and with all the rights in that behalf
accorded or authorized by the said sixth and seventh sections respectively of said act of the twenty-fifth day of February, eighteen hundred and sixty-nine, and the same are declared to be and are hereby 340
assigned and transferred to them accordingly; and
under and in accordance with the sixth section of
the said act of the twenty-fifth day of February,
eighteen hundred and sixty nine, it is hereby declared that the said Adrian Iselin and Adrian Iselin,
Junior, are substituted and entitled to all the liens
against said railroad company for the payment of said

341 indebtedness that the State of Tennessee had or has by law, and under and in accordance with the seventh section of said Act of the twenty-fifth day of February, eighteen hundred and sixty-nine, it is hereby declared that said Adrian Iselin and Adrian Iselin, Junior, are entitled to have and to hold all the lien or liens which the State of Tennessee had or has upon said Memphis and Charleston Railroad or its property, and shall have the same right to enforce the same which the State of Tennessee had;
342 the object and intent being, and being hereby declared to be, to place the said Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Co., in the same position, and with the same rights, which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same.

IN WITNESS WHEREOF we have hereunto set our hands and official seals this twenty-fifth day of
343 July, eighteen hundred and seventy-seven.

(Signed) JAS. D. PORTER,
Governor of Tennessee.

(Seal of State of Tennessee.) CHAS. N. GIBBS,
Secretary of State.

AND WHEREAS, by means of the premises aforesaid, the said Adrian Iselin and Adrian Iselin, Junior, are now the lawful owners and holders of
344 the aforesaid indebtedness of the Memphis and Charleston Railroad Company, existing originally in favor of the said State of Tennessee, and amounting to the said sum of one million seven hundred and thirty-six thousand nine hundred and six dollars and twenty-five cents, with the interest accrued and to accrue thereon from and after the first day of July, eighteen hundred and seventy-seven; and

the said Railroad Company is indebted to the said 345
Adrian Iselin and Adrian Iselin, Junior, as as-
signees of the State as aforesaid, in that amount
and with such interest, and the said Adrian Iselin
and Adrian Iselin, Junior, are also now the holders,
by assignment, as aforesaid, of the above-men-
tioned statutory lien, in the nature of a mortgage
originally existing in favor of the said State of
Tennessee for the amount of the indebtedness,
aforesaid, and of all the rights, liens, and securities
which the said State of Tennessee had for or in re- 346
spect of said indebtedness, and the interest accrued
and to accrue thereon, and are and will be entitled
to the like rights and remedies for the enforcement
of such liens, and for the securing and collecting of
such indebtedness and interest thereon, as the
State of Tennessee held or would have possessed
and been entitled to if its said transfer to the said
Adrian Iselin and Adrian Iselin, Junior had not
been made.

347

Now THIS INDENTURE WITNESSETH, that the said
The Memphis and Charleston Railroad Company,
in consideration of one dollar to it in hand paid by
the said Adrian Iselin and Adrian Iselin, Junior, at
and before the ensealing and delivery of these pre-
sents, the receipt whereof is hereby acknowledged,
and in consideration of the premises, and for other
good and valuable considerations it thereunto
moving, the receipt whereof is also hereby ac-
knowledged, and in conformity with a provision in 348
that behalf contained in the consolidated mortgage
hereinafter mentioned, doth hereby recognize, ratify
and confirm the holding and ownership by the said
Adrian Iselin and Adrian Iselin, Junior, under
transfer from the State of Tennessee, as aforesaid,
of the aforesaid indebtedness of said Railroad Com-
pany originally existing in favor of the State of

349 Tennessee, amounting to seventeen hundred and
thirty-six thousand nine hundred and six dollars
and twenty-five cents, due as of the first day of
July, eighteen hundred and seventy-seven, with
the interest accrued and to accrue thereon from
that date, together with the lien which the State of
Tennessee held therefor, and all the securities,
rights and remedies therefor and in respect of the
same and the enforcement thereof which the State
of Tennessee had. And said Memphis and Charles-
350 ton Railroad Company doth hereby covenant and
agree to pay such indebtedness, with the interest
accrued and hereafter to accrue thereon, to the said
Adrian Iselin and Adrian Iselin, Junior, their repre-
sentatives and assigns.

And for the consideration aforesaid the said Mem-
phis and Charleston Railroad Company doth hereby
covenant, grant declare and agree to and with the
said Adrian Iselin and Adrian Iselin, Junior, their
representatives and assigns, and to and with the said
351 The Farmers Loan and Trust Company, as Trustee
under and for the uses and purposes of this in-
denture, that the said Adrian Iselin and Adrian Ise-
lin, Junior, and their representatives and assigns,
including the said The Farmers' Loan and Trust
Company, as assignee thereof in trust hereunder,
and for the uses and purposes hereof, do and shall
have and hold, and are and shall be entitled to all
the same or the like liens and securities for and in
respect of the aforesaid indebtedness of seventeen
352 hundred and thirty-six thousand nine hundred and
six dollars and twenty-five cents, and each and every
part thereof, with the interest accrued and to accrue
thereon from and after the first day of July,
eighteen hundred and seventy-seven, and all the
same or the like rights and remedies therefor and in
respect thereof, and for the enforcement of the said
liens and securities and the collection of the said in-

debtedness and such interest accrued and to accrue 453
thereon, as the State of Tennessee had or held, or
was entitled unto or would have had, held and been
entitled unto, if it had continued to be the holder
and owner of such debt and of the liens and securi-
ties therefor; and that the same shall be paramount,
prior, and superior to the lien of the consolidated
mortgage dated the twentieth day of August,
eighteen hundred and seventy-seven hereinafter
mentioned; and that the said The Memphis and
Charleston Railroad Company, and its suc- 354
cessors and assigns, shall and will, at any and all
times hereafter, upon reasonable request therefor,
make, do and execute all such further and other
deeds, assurances and acts as, under the advice of
counsel, shall be reasonably advised or devised or
required from them in order to confirm and effect-
uate all such liens, securities, rights and remedies
in and to the said Adrian Iselin and Adrian Iselin,
Junior, and their representatives and assigns, in-
cluding the said party of the second part hereto as 355
assignee in trust as aforesaid, according to the in-
tention and purpose of this indenture.

AND THIS INDENTURE FURTHER WITNESSETH,
That the said The Memphis and Charleston Rail-
road Company, simultaneously with the execution
and delivery hereof, for good and valuable consider-
ation, it thereto moving has transferred and deliv-
ered over to the said Adrian Iselin and Adrian
Iselin, Junior, as an additional collateral security to 356
them and their representatives and assigns for the
aforesaid indebtedness of the said railroad com-
pany, originally existing in favor of the State of
Tennessee, and assigned and transferred to, and now
held by said Adrian Iselin and Adrian Iselin, Junior,
as aforesaid, and now amounting, as aforesaid, to
the sum of one million seven hundred and thirty-

357 six thousand nine hundred and six dollars and twenty-five cents, and for the interest accrued and to accrue thereon from and after the first day of July, eighteen hundred and seventy-seven, fourteen certain consolidated first mortgage bonds of the said The Memphis and Charleston Railroad Company, bearing date August twentieth, eighteen hundred and seventy-seven, each for the payment of the sum of one thousand dollars in United States gold coin, on the first day of January, nineteen hundred and
358 fifteen, with interest thereon in the meantime at the rate of seven per cent. per annum, payable in like gold coin semi-annually, on the first days of January and July in each year, issued under and secured by the said railroad company's so-called consolidated mortgage or deed of trust, bearing date August twentieth, eighteen hundred and seventy-seven, to the said Farmers' Loan and Trust Company as trustee, made to secure an issue of consolidated bonds thereunder limited to the aggregate
359 amount of four million seven hundred thousand dollars, which fourteen hundred bonds, so transferred and delivered to the said Adrian Iselin and Adrian Iselin, Junior, and numbered consecutively from (1) to fourteen hundred (1,400) both inclusive. *And* it is hereby expressly declared and agreed by and between the said The Memphis and Charleston Railroad Company and the said Adrian Iselin and Adrian Iselin, Junior, that such transfer and delivery to said Adrian Iselin and Adrian Iselin,
360 Junior, of the said fourteen hundred bonds, numbers one to fourteen hundred inclusive, is not in anywise to operate as a payment of, or upon account of, the aforesaid indebtedness of the said Railroad Company to the said Adrian Iselin and Adrian Iselin, Junior, as assignees of the rights of the said State of Tennessee, as aforesaid, amounting to the above-mentioned sum of one million seven hundred

and thirty-six thousand, nine hundred and six dol- 361
lars and twenty-five cents, with interest as aforesaid;
nor shall such transfer and delivery of such fourteen
hundred bonds in any wise diminish, impair, nor
affect the prior and paramount lien for the amount
of such indebtedness and interest on the portion
of said railroad, situated in the said State of Tennessee,
with its appurtenances and equipments, and
the other property in that State which originally
existed in favor of the State of Tennessee, and
which is now held by said Adrian Iselin and Adrian 362
Iselin, Junior, under transfer from said State as
aforesaid; but, that notwithstanding such transfer
and delivery to said Adrian Iselin and Adrian Iselin,
Junior, of such fourteen hundred bonds, the said
debt against said Railroad Company now held by
them under transfer from said State of Tennessee,
and the lien therefor originally existing in favor of
said State, and vested in them by transfer as aforesaid,
and all the rights and securities and remedies
of the said Adrian Iselin and Adrian Iselin, Junior, 363
for the security of said indebtedness originally existing
in favor of said State, with the interest thereon
accrued and to accrue, or for the enforcement of the
lien therefor, are to and shall remain in full force
and effect, as if said fourteen hundred bonds had
not been transferred and delivered as additional
security therefor, as aforesaid, PROVIDED HOWEVER,
and it is hereby agreed, that all sums which shall
have been actually paid in cash by said Railroad
Company, on account of interest or principal upon 364
said fourteen hundred bonds, or any of them, either
to said Adrian Iselin and Adrian Iselin, Junior, or
to any one holding any of such bonds by or under
transfer by them are when such payments respectively
are actually made and realized in cash, and
not before, to be credited as payments on account
of said original indebtedness to the State of Ten-

365 nessee, assigned to said Adrian Iselin and Adrian
Iselin, Junior, as aforesaid, reckoning for the purpose
of such credits such payments made in gold at
the value thereof in United States legal tender currency
at the time of payment, which payments received
for interest on such fourteen hundred bonds,
numbers one to fourteen hundred inclusive, shall
be credited on account of the interest accruing subsequently
to July first, eighteen hundred and
seventy-seven, on said indebtedness originally existing
366 in favor of the State, and assigned to Adrian
Iselin and Adrian Iselin, Junior, as aforesaid, and
which payments, if any, received for or on account
of principal of such fourteen hundred bonds shall
be applied on account of the principal of such indebtedness
originally existing in favor of the State,
and by it assigned over as aforesaid, and the interest
thereon accrued up to July first, eighteen hundred
and seventy-seven.

367 AND IT IS HEREBY FURTHER PROVIDED, DECLARED
AND EXPRESSLY AGREED by and on the part of the
said Memphis and Charleston Railroad Company
that the said Adrian Iselin and Adrian Iselin, Junior,
shall be entitled to sell or otherwise dispose of or
transfer any or all of the said fourteen hundred
bonds so transferred to them as they may deem fit,
without thereby prejudicing or affecting the said
original indebtedness to the State so assigned to
them, or the said lien held therefor, or the rights or
368 remedies of themselves or their assigns for or in
respect of the same, and without subjecting
themselves or their assigns to any present
credit upon such indebtedness for or in respect
of said bonds so sold or disposed of or transferred,
but subject to the aforesaid obligation
to give credit upon such original indebtedness
for all payments made for principal or interest on

such bonds so sold or disposed of or transferred, 369
when such payments are actually made and realized in cash, but not before.

AND WHEREAS the said Adrian Iselin and Adrian Iselin, Junior, contemplate, in pursuance of the foregoing authorization and agreement in that behalf, or sell or dispose of or transfer the whole or portions, from time to time, of the said fourteen hundred consolidated first mortgage bonds for one thousand dollars each, now received by them 370
by way of additional collateral security for the said indebtedness as aforesaid, and to accompany such sale or disposal, or transfer of such bonds by transfer, to the holders or takers thereof respectively of beneficial interests in and to a trustee for their benefit of the legal title to a proportionate part of said original indebtedness of the said Railroad Company to the State of Tennessee, and of the liens and securities therefor, originally held by the State, and now vested by transfer in them as aforesaid. 371

NOW, THIS INDENTURE FURTHER WITNESSETH that the said Adrian Iselin and Adrian Iselin, Junior, in consideration of the premises, and to the end aforesaid, and in further consideration of one dollar to them in hand paid by the party of the second part, at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and with the consent and approval of the said The Memphis and Charleston Railroad Company, hereby given and attested by the ensealing 372
and delivery of these presents by the said Railroad Company, have assigned, transferred and set over, and do hereby assign, transfer and set over to the said The Farmers' Loan and Trust Company, party of the second part hereto, as trustee hereunder, and its successors and assigns, the aforesaid indebtedness of the said The Memphis and Charleston Rail-

373 road Company, originally existing in favor of the State of Tennessee, and now vested in the said Adrian Iselin and Adrian Iselin, Junior, by transfer from said State as aforesaid, amounting to the before-mentioned sum of one million seven hundred and thirty-six thousand nine hundred and six dollars and twenty-five cents ($1,736,906.25), with the interest accrued and to accrue thereon from and after the first day of July, eighteen hundred and seventy-seven, and likewise the aforesaid statutory
374 lien, in nature of a mortgage, for the security of such indebtedness heretofore held by the State of Tennessee, and now vested by assignment in said Adrian Iselin and Adrian Iselin, Junior, as aforesaid, and all the liens, securities, rights and remedies whatsoever, for the security and collection of such indebtedness and the interest thereon accrued and to accrue, which the said Adrian Iselin and Adrian Iselin, Junior, now are vested with or entitled to, or at any time or times hereafter, but for
375 the execution and delivery of this instrument, would or might be entitled to have, hold or exercise, *to be had and holden* by the said The Farmers' Loan and Trust Company as trustee, under this indenture, for the equal *pro rata* security and benefit of all such persons and corporations, including the said Adrian Iselin and Adrian Iselin, Junior, themselves, as from time to time shall be the holders of the before-mentioned fourteen hundred consolidated first mortgage bonds, numbered one to fourteen
376 hundred inclusive, and so as that beneficial or equitable interest in the said indebtedness originally existing in favor of the State, including the interest thereon accrued and to accrue, and in the lien which was held by the State therefor, and in the rights and remedies in respect thereof, may (as it is hereby declared and agreed by the parties of the first and third part respectively shall be the case) vest equit-

ably in the holders from time to time of such four- 377
teen hundred collateral bonds, numbered one to
fourteen hundred inclusive, including the said
Adrian Iselin and Adrian Iselin, Junior, themselves,
in respect of so many of said fourteen hundred bonds
as may remain in their hands untransferred by
them, with *pro rata* equality in proportion to the
respective amounts of such fourteen hundred bonds
held by such parties respectively. And so that the
holder of each of such fourteen hundred bonds
numbers one to fourteen hundred inclusive, shall 378
be entitled to a proportionate beneficial interest in
such amount or proportion of the said indebtedness
originally existing in favor of the State, with the interest
there accrued and to accrue, and the said lien
and rights held for the security thereof, corresponding
with the principal and interest of
such bond so held by him, and with the proper
proportionate addition thereto, by reason of the
principal and interest of such bond being payable in
gold instead of currency; but the legal title to such 379
original indebtedness, with its attendant liens and
securities remaining, nevertheless, vested in the said
party of the second part hereto in trust for the
holders of said fourteen hundred collateral bonds as
aforesaid, and to the end and intent that, notwithstanding
any sale or disposition or transfer which
may be made by said Adrian Iselin and Adrian
Iselin, Junior, of such fourteen hundred collateral
bonds, numbered one to fourteen hundred inclusive,
the said debt and lien originally existing in favor of 380
the State, and preserved in full force, and assigned
and transferred to the said The Farmers' Loan and
Trust Company, as trustee hereunder as aforesaid,
and the said bonds held as further collateral security
therefor may, in substance and effect, be
beneficially held by or for the account and benefit
of the same persons, and that the parties may sub-

381 stantially, in respect of beneficial or equitable interests, be in like position as if the said original debt and lien and the said fourteen hundred bonds, held as collateral security therefor, had all continued to be held by said Adrian Iselin and Adrian Iselin, Junior, or had been altogether assigned over by them to the same person or persons.

AND IT IS HEREBY FURTHER PROVIDED AND DECLARED, that the party of the second part hereto, as trustee as aforesaid, shall endorse upon said fourteen hundred consolidated bonds, numbers 1 (one) 382 to 1400 (fourteen hundred) inclusive, a certificate subscribed on behalf of the said party of the second part by its President, which shall be substantially in the following form, viz:

"It is hereby certified that Adrian Iselin and Adrian Iselin, Junior, as assignees from the State of Tennessee of a debt originally due by the Memphis and Charleston Railroad Company to the State of 383 Tennessee, amounting as stated, including interest to the first day of July, eighteen hundred and seventy-seven, to seventeen hundred and thirty-six thousand nine hundred and six dollars and twenty-five cents, and of the State's prior lien therefor upon said Company's railroad line in Tennessee and other property in that State, have, with said Railroad Company's consent, executed and delivered an instrument dated the twenty-first day of August, eighteen hundred and seventy-seven, assigning said 384 original debt and lien to The Farmers' Loan and Trust Company as trustee, as an additional and special security for the fourteen hundred consolidated bonds of this issue, numbers one to fourteen hundred inclusive, whereof this is one, reference to which instrument is hereby made for showing the securities and rights acquired thereunder by the holders of said fourteen hundred bonds.

"Dated the twenty-first day of August, eighteen hundred and seventy-seven. 385

"THE FARMERS' LOAN AND TRUST COMPANY,
"By R. G. ROLSTON, *President*."

And the said parties of the first part, with the consent of the said parties of the third part, do hereby covenant, declare and agree to and with the party of the second part, as trustee for the benefit of the holders from time to time of said fourteen hundred 386 bonds, numbers one to fourteen hundred inclusive, and likewise to and with all such persons as shall from time to time become transferees or holders of any of such fourteen hundred bonds, having endorsed thereon such certificate substantially in the form to the effect aforesaid, that all such holders from time to time of any of such fourteen hundred bonds having such certificate endorsed thereon shall be possessed of and entitled to such proportional beneficial or equitable interest as is hereinbefore 387 declared or provided for in the said debt originally due from the Memphis and Charleston Railroad Company to the State of Tennessee, and the interest accrued or to accrue thereon, and in the said lien originally held by the State therefor, and in the rights, liens and securities in respect thereof transferred by the State to Adrian Iselin and Adrian Iselin, Junior, as aforesaid, and hereby vested in the party of the second part as trustee as aforesaid, as likewise to all others their equitable rights as 388 beneficiaries of the trust created by this indenture.

AND inasmuch as under the terms and conditions of this instrument, and under and in virtue of the terms and conditions of the mortgage or deed of trust securing the issue of consolidated first mortgage bonds whereof said fourteen hundred bonds from one to fourteen hundred inclusive form part,

389 as by reference to that mortgage or deed of trust will appear, there will exist a double lien and security for substantially the same amount or debt in favor of the holders of said debt and lien originally held by the said State of Tennessee, and assigned over to Adrian Iselin and Adrian Iselin, Junior, as aforesaid, and now transferred to the party of the second part in trust as aforesaid, and of the holders of the said fourteen hundred bonds numbered from one to fourteen hundred inclusive,
390 held as further collateral security therefor, and which double lien, as to a part thereof, will exist upon the same subject matter, namely, the said railroad in Tennessee, with its appurtenances and equipments, and the other property in that State subject to the State lien, although, as to other portions of the property covered by the said consolidated mortgage, situate in the States of Alabama and Mississippi respectively, the said State lien now vested in Adrian Iselin and Adrian Iselin, Junior,
391 as aforesaid, has no application or operation. Now, it is hereby declared, provided, granted and agreed by and between all the parties hereto, in conformity with the provisions and declarations in that behalf contained in the said consolidated mortgage securing the issue of bonds, whereof the said fourteen hundred bonds numbered from one to fourteen hundred inclusive form part, that such double lien and security is intended to and shall exist, and that neither of such liens or securities shall prejudice the efficacy
392 of the other; and that the State lien held by assignment as aforesaid, and now vested in the said The Farmers' Loan and Trust Company as trustee under this indenture, and for the uses and purposes thereof may be enforced, and all the rights and remedies in respect thereof may be held and had as fully and completely and effectually as if the lien and security in virtue of the holding of such fourteen hundred

bonds as further collateral security as aforesaid did 393
not exist, and that the holders from time to time of
such fourteen hundred bonds so transferred by way
of further collateral security for such original debt
shall be entitled, as fully and completely and effectually as if the said original lien and security for
the original debt, as further security for which said
fourteen hundred bonds are transferred, did not
exist, to their equal *pro rata* share and proportion
in like manner with the holders of other bonds,
numbers 1401 (fourteen hundred and one) to 4,700 394
(four thousand seven hundred) inclusive, to be
issued under and secured by the said consolidated
mortgage, or such of said other bonds as may from
time to time be outstanding, of the benefit of all the
securities and liens provided by the said consolidated mortgage, and of the proceeds and fruits thereof,
and of any foreclosure or enforcement of the same,
including as well the mortgaged premises (situate in
Alabama and Mississippi) as the other mortgaged
premises, save and except that if, prior to making 395
apportionment and distribution between the holders
of the bonds secured by the said consolidated mortgage of the net proceeds of any foreclosure, or other
legal enforcement thereof, any net sum shall have
been actually collected and realized in cash by
means of legal enforcement of the said lien originally held by the State of Tennessee and assigned
over to Adrian Iselin and Adrian Iselin, Junior, as
aforesaid, and now vested in the said The Farmers'
Loan and Trust Company, as trustee under this in- 396
denture, by giving proper credit wherefor, after first
deducting therefrom all proper expenses and
charges incurred in respect of the proceedings for
such enforcement and collection, including the compensation of the said party of the second part as
trustee in respect thereof, the then unpaid amount
of said indebtedness of the Railroad Company

397 originally existing in favor of the State, and by it
transferred over as aforesaid, and as collateral security
for which said fourteen hundred bonds, numbers
one to fourteen hundred inclusive, shall be
reduced below the principal of such fourteen hundred
bonds, and the interest thereon accrued and
unpaid at the time of such apportionment and
distribution, having due regard to the circumstance
that said bonds are payable in
gold, and therefore reducing the amount
398 of such net credit or deduction realized in legal tender
currency to the value thereof in gold when collected
and realized, then and in such case, for the
purpose of making such apportionment and distribution
between the respective bondholders secured
under said consolidated mortgage of the net proceeds
of such foreclosure or other legal enforcement
of said consolidated mortgage, the said fourteen
hundred bonds, numbers one to fourteen hundred
inclusive, instead of being reckoned at their face
399 value, with their accrued and unpaid interest, shall
be reckoned as being only for an amount equal to
such reduced amount, computed as aforesaid, remaining
unpaid at the time of such apportionment
and distribution upon the said indebtedness of said
railroad company originally existing in favor of the
State of Tennessee, and by it transferred over as
aforesaid, and for which the said fourteen hundred
bonds shall stand as security as aforesaid, and such
apportionment and distribution between such fourteen
400 hundred bonds and the other outstanding
bonds secured by the said consolidated mortgage
shall be made accordingly, and it being always
understood and hereby agreed and provided, that the
double lien and security aforesaid will not and shall
not be allowed so to operate as to produce an actual
double payment or satisfaction, but that all payments
actually received and realized in money by means of

either security will and shall, to the extent of such 401
actual payments realized, go in reduction of such original debt and of said collateral bonds held as security therefor, but making the proper allowance for difference between gold and currency as aforesaid.

And, in consideration of the addition collateral security now given to them as aforesaid, and as part of the bargain and arrangement between the said
Adrian Iselin and Adrian Iselin, Junior, and the 402
Memphis and Charleston Railroad Company, in respect of the premises which is evidenced by this Indenture, the said Adrian Iselin and Adrian Iselin, Junior, do hereby consent and agree to and with the said, the Memphis and Charleston Railroad Company, that they will eventually reduce the amount of their said claims and demands against said railroad company, and the lien and security therefor under the said assignment and transfer
from the State of Tennessee to them, so that when 403
they or their assigns shall have actually received and realized in cash by net payments, as on account of the said present amount of the said indebtedness of one million seven hundred and thirty-six thousand nine hundred and six dollars and twenty-five cents ($1,736,906.25), in United States legal tender currency, due July first, eighteen hundred and seventy-seven, a sum equal to fourteen hundred thousand dollars ($1,400,000) in United States
gold coin, reducing currency realizations or pay- 404
ments to gold values as elsewhere provided, and when they or their assigns shall have actually received and realized in cash by net payments, on account of interest accruing at the rate of six per cent. per annum, payable semi-annually on the first days of January and July, upon the said currency indebtedness of one million seven hundred

405 and thirty-six thousand nine hundred and six
dollars and twenty-five cents ($1,736,906.25) a sum
equal to seven per cent. per annum in United
States gold coin, from the first day of July,
eighteen hundred and seventy-seven, payable semi-
annually on the first days of January and July,
upon such sum of fourteen hundred thousand dol-
lars ($1,400,000) gold, until payment and realization
in cash as aforesaid of that principal sum, reducing
currency realizations or payments to gold values as
406 elsewhere provided, the residue of such currency
indebtedness of seventeen hundred and thirty-six
thousand nine hundred and six dollars and twenty-
five cents ($1,736,906.25), and of the interest
accruing thereon, from and after July first, eighteen
hundred and seventy-seven, shall be thereupon
given up, released and discharged to said railroad
company.

Provided however, and it is understood as a
condition thereof, that the said the Memphis and
407 Charleston Railroad Company shall, as they
hereby agree they will, bear, pay, and dis-
charge all the expenses and charges attendant
upon the collection and receipt of such moneys
on account of the principal and interest (or
either) of such indebteduess originally exist-
ing in favor of the State, and of all legal and other
proceedings had or taken for the recovery thereof,
including the compensation of the party of the
second part, as Trustee, in respect of such collec-
408 tion, receipt, and legal and other procoedings.

And it is agreed that this stipulation on the part of said Adrian Iselin and Adrian Iselin, Junior, shall bind their representatives and assigns, including the said The Farmers' Loan & Trust Company, as assignee of such debt in trust for the purpose of this Indenture, whereunto the said The Farmers'

Loan and Trust Company, as such Trustee, does
hereby assent. 409

It is further understood and agreed, that
for the purpose of this stipulation and agreement
all cash payments received and realized, for prin-
cipal or interest, upon such fourteen hundred
bonds, numbered from one to fourteen hundred in-
clusive, or any of them, by parties holding such
bonds, by or under transfer from said Adrian Iselin
and Adrian Iselin, Junior, shall be of like legal
effect as if the said moneys were received by said
Adrian Iselin and Adrian Iselin, Junior, them- 410
selves.

And it is hereby further provided, de-
clared, granted and agreed that all net sums
or amounts which shall be received or in anywise
realized by the said The Farmers' Loan and Trust
Company, as Trustees under this Indenture, for or
in respect of, or from or by reason of the indebted-
ness of the Memphis and Charleston Railroad Com-
pany, originally existing in favor of the said State 411
of Tennessee, and hereby assigned to the Farmers'
Loan and Trust Company as Trustees as aforesaid,
or by means of enforcement in any form of the said
statutory lien in the nature of a mortgage or of any
other liens or securities for such indebtedness held
by the said The Farmers' Loan and Trust Company
as Trustees under this Indenture, shall, after first
deducting therefrom all proper expenses and charges
in the premises, including the compensation of the
Trustee in respect thereof, be divided with *pro rata* 412
equality among all and singular the holders of the
said fourteen hundred bonds issued under and
secured by the said consolidated mortgage, and
numbered from one to fourteen hundred inclusive,
in proportion to the amounts of principal and in-
terest due or owing at the time being upon such

413 fourteen hundred bonds; and it being understood
and agreed that the said Adrian Iselin and Adrian
Iselin, Junior, shall be entitled to participate therein
for or in respect of such of the said fourteen hundred
bonds as they may retain in their own hands
unsold or undisposed of in like manner as holders of
any of such bonds under the transfer thereof from
them; and it being further understood that the
holders of such fourteen hundred bonds are not to
receive in the whole a greater sum than the amounts
414 in gold of the principal and interest of their bonds,
reducing the currency realizations or credits or
payments to the gold values thereof at the time of
realization or payment as aforesaid.

And the said Adrian Iselin and Adrian Iselin,
Junior, with the assent and concurrence of the said
The Memphis and Charleston Railroad Company,
which is hereby given, do hereby authorize and empower
the said The Farmers' Loan and Trust Company
415 as Trustee as aforesaid in any and every case
of the occurrence of such default on the part of said
railroad company or of the existence otherwise of
such circumstances as to authorize any proceedings
either at law or in equity, or by entry into possession
and receipt of income or otherwise howsoever,
for the enforcement of the lien which was originally
held by the State of Tennessee for security of the
aforesaid indebtedness of the said railroad company
to the State, and which was transferred and assigned
416 by the State to said Adrian Iselin and Adrian Iselin,
Junior, as aforesaid, or for the collecting or securing
of such indebtedness and the interest thereon accrued
or to accrue, or either such principal or interest
or any part thereof, to take any and all such
proceedings either at law or in equity, or by entry
into possession and receipt of income or otherwise
howsoever, for any and all of the purposes and ends

aforesaid, either in the name and as the attorneys 417
of the said Adrian Iselin and Adrian Iselin, Junior, or otherwise as may be deemed expedient, and to do all acts and things needful or proper to such ends.

AND IT IS HEREBY PROVIDED, DECLARED AND AGREED that the said the Farmers' Loan and Trust Company, in case it shall be called upon to take any legal or other steps or proceedings for the enforcement of the lien of for collection of the said 418
indebtedness hereby assigned to it, shall be entitled to receive just and proper compensation for all the services it shall render in and about such steps or proceedings, as well as for any other services it may properly render in the performance of its duties as such Trustee, as also indemnity for its proper disbursement in the premises, which compensation and indemnity shall be borne and paid by the said Railroad Company, and if not so paid by the said Railroad Company directly may be deducted from the 419
sums collected or received by it as such Trustee, in the accounting for such moneys and application thereof to the purposes of this trust. The Trustee, however, shall not be compelled to commence such foreclosure proceedings until the parties requesting the same shall have furnished the said Trustee with satisfactory indemnity for all costs and charges.

AND IT IS FURTHER PROVIDED, DECLARED AND AGREED that in case of a vacancy at any time occurring in the Trusteeship of the party of the 420
second part hereunder or its successor or successors, either by resignation duly accepted by a majority in amount of said bondholders who are beneficiaries of the trust, removal, death or otherwise howsoever, such vacancy may be filled by the concurrent action in writing under seal of a majority in amount of the holders of said fourteen hundred bonds, numbers

421 one to fourteen hundred inclusive, who are the
beneficiaries of the trust; and that the party of the
second part or any of its successors as Trustee thereunder,
howsoever appointed, may at any time be
removed from the trust by concurrent action in
writing under seal of a majority in amount of the
holders of the said fourteen hundred bonds, numbers
one to fourteen hundred inclusive, and in default
of filling a vacancy by such majority in
amount of such bondholders the same may be filled
422 by the appointment of a new Trustee or Trustees by
the Supreme Court of the State of New York, in
the City of New York, upon appropriate proceedings
for the purpose, which Trustee so appointed
shall nevertheless, in like manner with any other
Trustee hereunder, be subject to removal by a majority
in interest of the bondholders as aforesaid,
and further that in the filling of a vacancy in the
Trusteeship there may be either one or two Trustees
appointed to fill the vacancy, and either another
423 corporation having legal capacity for the trust or
one or two individual Trustees may be appointed
to fill any vacancy, and that all succeeding Trustees
duly appointed shall be vested with the trust and
all the estates, rights, interests, powers and duties
vested in the said party of the second part as
Trustee hereunder in like manner and with like
effect as the original Trustee.

AND INASMUCH as there are lands in the City of
424 Memphis which were procured or intended for use
as depot grounds, or for sites for depots, shops or
other buildings, now belonging to the said The
Memphis and Charleston Railroad Company, and
subject to the aforesaid lien originally existing in
favor of the State of Tennessee, and assigned to
Adrian Iselin and Adrian Iselin, Junior, and now
assigned to the party of the second part hereto

as Trustee hereunder, and which are partly now in 425
use for such purposes and partly not so in use, and which lands are of much greater extent and value than is required for the uses of the said railroad, and may be advantageously sold and disposed of in aid of the general funds of the said Railroad Company, now it is hereby declared, granted, provided and agreed, that in case the said Railroad Company shall sell, or contract to sell, any of such lands in the City of Memphis which it shall decide no longer
to use for the purposes of its said railroad, or the 426
operation thereof, and shall require to have released from the lien held by the party of the second part, or its successors, as Trustee under this indenture, in order to give a title to the purchaser thereof free from such lien, it shall be competent and lawful for the said party of the second part, or its successor or successors, as trustee hereunder, and it and they are hereby authorized and empowered to release by proper deed or deeds,
or instruments in the law for the purpose, from the 427
aforesaid lien originally existing in favor of the State of Tennessee, and vested by assignment in the party of the second part hereto as trustee as aforesaid, and from any and all lien thereon of the said party of the second part, or its successor or successors, as trustee hereunder, any and from time to time all such lands in the City of Memphis so disused for the purposes of said railroad, and so sold or disposed of by said railroad company; Provided
always, that if at the time of such release the said 428
Adrian Iselin and Adrian Iselin, Junior, or either of them, shall be living and not absent from the United States, and not mentally incapacitated, they or one of them so living, and not absent nor incapacitated, must, as a condition of the efficacy of such release, assent in writing to the giving thereof, which assent may be by writing in the release; and

429 provided further, that in case of the sale and release as aforesaid of any of such lands in Memphis so disused, if any other lands shall be procured by said railroad company to be used in place thereof, or substitution therefor, for depot grounds or sites for buildings, or other purposes of such railroad, or its operating, such substituted lands shall be subject to the like lien in favor of the said party of the second part, or its successors or successor, as trustee hereunder, as were such released lands. And the
430 said railroad company shall, by proper deed or instrument, confirm and assure, and, if need be, execute such lien upon such substituted lands, and upon all buildings and other improvements placed thereon, to and in favor of the said party of the second part, as trustee hereunder, or its successor or successors.

And inasmuch as the party of the second part hereto is trustee under the before-mentioned con-
431 solidated mortgage for the benefit of the holders of all the said consolidated bonds, numbers one to four thousand seven hundred inclusive, as well as trustee under this Indenture in respect of the special trust created, and special and additional security thereby given for the special and separate benefit of the holders of said fourteen hundred bonds, numbers one to fourteen hundred inclusive, it is hereby declared and agreed, in conformity with a provision in that regard contained in said consolidated mort-
432 gage, that such circumstances of the said the Farmers' Loan and Trust Company being likewise trustee under the said consolidated mortgage, shall in no wise detract from, affect or impair the special and exclusive rights and securities of the holders of said fourteen hundred bonds, numbers one to fourteen hundred inclusive, held by them through the said trusteeship of the said party of the second

part, under this Indenture, for their separate use 433
and benefit as aforesaid.

AND THIS INDENTURE FURTHER WITNESSETH that the said Adrian Iselin and Adrian Iselin, Junior, in consideration of the premises, do hereby for themselves and their representatives covenant and agree to and with the said party of the second part, as trustee under this Indenture, and for the uses and purposes thereof, and to and with all such persons and corporations as shall from time to time become
or be lawful owners or holders of any of the before 434
mentioned fourteen hundred bonds, numbers one to fourteen hundred inclusive, having endorsed thereon such certificate of the party of the second part by its President, as is above provided for, that they said Adrian Iselin and Adrian Iselin, Junior, and their representatives, shall and will at any time, and all times hereafter, upon reasonable request therefor, and at the expense of the party requesting the same, make, do and execute all such further
and other acts, deeds, conveyances or assurances, as 435
under the advice of competent counsel shall be deemed necessary or advisable, in order to confirm, assure and make effectual the assignment and transfer hereinbefore contained or intended to be made to the party of the second part as trustee for the benefit and security of the holders of said fourteen hundred bonds, numbers one to fourteen hundred inclusive, in accordance with the true intent and meaning hereof, to effectuate the objects and pur-
poses of this Indenture. 436

IT IS HEREBY FURTHER PROVIDED, DECLARED AND AGREED that in the case of the party of the second part, trustee hereunder, entering upon and taking possession of the said Railroad and other property in the State of Tennessee, covered by the said lien originally held by the State, and hereby assign to

437 the party of the second part, as trustee hereunder, in consequence of default made by said Railroad Company, entitling it so to do, it shall be lawful and competent for such trustee to employ an agent or agents for the performance of any such duties, acts and things in and about taking and maintaining such possession, and using, operating, maintaining and managing the said Railroad, and collecting the income, earnings and profits thereof, and performing the other duties of the trust created
438 hereby, as such trustee may deem fit, and for the performance of any other acts in and about such possession and management, the performance wherof can be properly delegated to an agent; and that such trustee, provided it shall have exercised reasonable prudence and care in the selection and employment of such agent or agents for any of such purposes, shall not be responsible for losses or damages in the premises caused by the act, neglect or default of such agent or agents. But this
439 provision is not intended, and shall not be so construed as to exempt the trustee in case of sale being made of the said premises covered by the lien in enforcement of such lien, from due responsibility to the bondholders hereby secured for the due application of the proceeds of such sale. received either by the trustee or by any agent or agents whom it may see fit to employ to receive such proceeds of sale.

440 And the said the Farmers' Loan and Trust Company, Trustee hereunder, and its successors are hereby released from executing the bond required from trustees by the laws of Tennessee and from giving any bond or security as trustee or trustees under this Indenture which may or might otherwise be required by the laws of either of the States of Tennessee, Mississippi and Alabama.

And said party of the second part hereby accepts the trust hereby created and agrees to perform the duties thereof. 441

In WITNESS WHEREOF, the said parties of the first part have hereto set their hands and seals, and the party of the second part, in pursuance of a resolution of its Board of Directors, hath hereunto affixed its corporate seal and caused the same to be attested by its President.

And the said party of the third part, in pursuance of a resolution of its Board of Directors, have hereunto affixed its corporate seal and caused the same to be attested by its President and Secretary the day and year first above written. 442

ADRIAN ISELIN, (Seal.)
Witnesses,
W. H. CLARKSON, ADRIAN ISELIN, JR. (Seal.)
CHARLES NETTLETON, A. ISELIN & CO. (Seal.)

THE FARMERS' LOAN AND TRUST CO. 443
(Seal.) By R. G. ROLSTON, *President.*

THE MEMPHIS AND CHARLESTON RAILROAD CO.
(Seal.) By R. T. WILSON, *President.*
By S. R. CRUSE, *Secretary.*

STATE OF NEW YORK, } ss. 444
City and County of New York. }

BE IT REMEMBERED, That on the 21st day of August, A.D. 1877, before me, CHARLES NETTLETON, a Commissioner of Deeds of the State of Tennessee, in and for the State of New York, residing in said City of New York, personally appeared R. T. WILSON, the President of the Memphis and

445 Charleston Railroad Company, the foregoing named bargainer, with whom I am personally acquainted, and who acknowledged that he executed the foregoing instrument for the purpose therein contained, as his act and deed as such president, and the act and deed of said Memphis and Charleston Railroad Company. And, being duly sworn, he did depose and say, that he is the President of the said Memphis and Charleston Railroad Company, and that the seal affixed to the foregoing instrument, pur-
446 porting to be the corporate seal of said company, is such corporate seal, and that it was affixed thereto by order of the Board of Directors of said company, and that he signed his name thereto by the like order as such president. And, on the 29th day of August, A.D. 1877, before me also personally appeared ROSEWELL G. ROLSTON, the President of the Farmers' Loan and Trust Company, of New York, the foregoing named trustee, with whom I am personally acquainted, and who acknowledged that he
447 executed the foregoing instrument for the purpose therein contained, as his own act and deed, and the act and deed of the said Farmers' Loan and Trust Company. And, being by me duly sworn, he did depose and say, That he is the President of the said Farmers' Loan and Trust Company, and that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said company, is such corporate seal, and that it was affixed thereto by order of the Board of Directors of said company,
448 and that he signed his name thereto by the like order, as such president. And, on the said 29th day of August, A.D. 1877, before me also personally appeared ADRIAN ISELIN and ADRIAN ISELIN, JR., composing the firm of A. ISELIN & Co., the foregoing named bargainers, with whom I am personally acquainted, and who each acknowledged that they executed the foregoing instrument for the purposes

therein contained, as their act and deed, and the act 449
and deed of their said firm.

In witness whereof, I have hereunto
set my hand and affixed my official
seal, this 29th day of August, A.D.
1877.

CHARLES NETTLETON,
Commissioner for Tennessee in New York.
(Seal.)

450

State of New York, } ss.
City and County of New York. }

Be it Remembered, That on the 21st day of August, A.D. 1877, before me, **Charles Nettleton**, a Commissioner of Deeds of the State of Alabama, in and for the State of New York, residing in said City of New York, personally appeared R. T. **Wilson**, the President of the Memphis and Charleston Railroad Company, whose name is signed to the 451 foregoing instrument, and who is known to me, and who acknowledged before me on that day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date, as his act and deed, and the act and deed of the said Memphis and Charleston Railroad Company. And, being by me duly sworn, he did depose and say, that he is the President of the said Memphis and Charleston Railroad Company, and that the seal affixed to the foregoing instru- 452 ment purporting to be the corporate seal of said company, is such corporate seal, and that it was affixed thereto by order of the Board of Directors of said company, and that he signed his name thereto by the like order, as such president. And, on the 29th day of August, A. D. 1877, before me also personally appeared **Rosewell G. Rolston**, Presi-

453 dent of the Farmers' Loan and Trust Company, whose name is signed to the foregoing instrument, and who is known to me, and acknowledged before me on that day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date, as his act and deed, and the act and deed of said Farmers' Loan and Trust Company. And, being duly sworn, he did depose and say, That he is the president of the said Farmers Loan and Trust Company, and that
454 the seal affixed to the foregoing Instrument, purporting to be the corporate seal of said Company, is such corporate seal, and that it was affixed thereto by order of the Board of Directors of said Company, and that he signed his name thereto by the like order, as such President. And on the said 29th day of August, A. D. 1877, before me also personally appeared Adrian Iselin and Adrian Iselin, Jr., composing the firm of A. Iselin & Co., and whose names are signed to the foregoing Instrument, and who
455 are known to me, and severally acknowledged before me on that day that, being informed of the contents of said Instrument, they executed the same voluntarily on the day the same bears date, as their act and deed, and the act and deed of their said firm.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official seal, this 29th day of August, A. D. 1877.

456

CHARLES NETTLETON.
Commissioner for Alabama, in New York.

(Seal.)

STATE OF NEW YORK, } ss : 457
City and County of New York. }

BE IT REMEMBERED, That on the 21st day of August, A. D. 1877, before me, Charles Nettleton, a Commissioner of Deeds of the State of Mississippi, in and for the State of New York, residing in the said City of New York, personally appeared R. T. Wilson, President of the Memphis and Charleston Railroad Company, who acknowledged that he signed, sealed and delivered the foregoing Instrument, as his act
and deed, as such President, and the act and deed 458
of the said Memphis and Charleston Railroad Company. And, being by me duly sworn, he did depose and say, That he is the President of said Memphis and Charleston Railroad Company, and that the seal affixed to the foregoing Instrument, purporting to be the corporate seal of said Company is the corporate seal of said Company, and that it was affixed thereto by order of the Board of Directors of said Company, and that he signed his
name thereto by the like order, as the President of 459
said Company. And, on the 29th day of August, A. D. 1877, before me also personally appeared Roswell G. Rolston, the President of the Farmers' Loan and Trust Company, of New York, who acknowledged that he signed, sealed and delivered the foregoing Instrument as his act and deed as such President, and the act and deed of the said Farmers' Loan and Trust Company. And, being by me duly sworn, he did depose and say, that he is the
President of the said Farmers' Loan and Trust Com- 460
pany, and that the seal affixed to the foregoing Instrument, purporting to be the corporate seal of said Company, is such corporate seal, and that it was affixed thereto by order of the Board of Directors of said Company, and that he signed his name thereto by the like order, as such President. And on the said 29th day of August, A. D. 1877,

461 before me also personally appeared Adrian Iselin and Adrian Iselin, Jr., composing the firm of A. Iselin & Co., who each acknowledged that they signed, sealed and delivered the foregoing Instrument as their act and deed, and the act and deed of their said firm.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official seal, this 29th day of August, A. D. 1877.

462

CHARLES NETTLETON,
Commissioner for Mississippi, in New York.
(Seal.)

STATE OF NEW YORK,
City and County of New York. } ss :

BE IT REMEMBERED, That on this 10th day of
463 September, A. D. 1877, before me, Charles Nettleton, a Commissioner of Deeds of the State of Tennessee, in and for the State of New York, personally appeared S. R. Cruse, Secretary of the Memphis and Charleston Railroad Company, the within named bargainer, with whom I am personally acquainted, and who acknowledged that he executed the foregoing Instrument for the purposes therein contained, as his act and deed, and the act and deed of said Company.
464 And the said S. R. Cruse, being duly sworn, he did depose and say, that he was the Secretary of said Memphis and Charleston Railroad Company, and that the seal affixed to the foregoing instrument, purporting to be the corporate seal of said Company, was such corporate seal, and that it was so affixed thereto by order of the Board of Directors of said Company, and that he signed his name

thereto by the like order, as the Secretary of said Company. 465

In Witness Whereof, I have hereunto set my hand and affixed my Official seal, this 10th day of September, A. D. 1877.

CHARLES NETTLETON,
Commissioner for Tennessee in New York.

(Seal.)

466

State of New York,
City and County of New York. } ss.:

Be it Remembered, That on this 10th day of September, A. D. 1877, before me, Charles Nettleton, a Commissioner of Deeds of the State of Alabama, in and for the State of New York, residing in said City of New York, personally appeared S. R. Cruse, Secretary of the Memphis and Charleston Railroad Company, whose name is signed to the foregoing Instrument, and who is known to me, and who acknowledged to me on this day that, being informed of the contents of said Instrument, he executed the same voluntarily on the day the same bears date, as his voluntary act and deed, and the voluntary act and deed of said Company. And, being by me duly sworn, he did depose and say, that he was the Secretary of said Company, and that the seal affixed to the foregoing Instrument, purporting to be the corporate seal of said Company, was such corporate seal, and that it was so affixed thereto by order of the Board of Directors of said Company, and that he signed his name thereto by the like order, as the Secretary of said Company. 467 468

469 In Witness Whereof, I have hereunto set my hand and affixed my Official seal, this 10th day of September, A. D. 1877.

CHARLES NETTLETON,
Commissioner for Alabama in New York.
(Seal.)

State of New York,
470 *City and County of New York.* } ss.:

Be it Remembered, That on this 10th day of
September, A. D. 1877, before me, Charles Net-
tleton, a Commissioner of Deeds of the State of
Mississippi, in and for the State of New York, re-
siding in said City of New York, personally ap-
peared S. R. Cruse, Secretary of the Memphis and
Charleston Railroad Company, who acknowledged
that he signed, sealed and delivered the foregoing
Instrument as his act and deed as such Secretary,
471 and the act and deed of said Company. And, being
duly sworn, he did depose and say, that he was the
Secretary of said Company, and that the seal af-
fixed to the foregoing Instrument, purporting to be
the corporate seal of said Company, is such corpo-
rate seal, and that it was so affixed thereto by order
of the Board of Directors of said Company, and that
he signed his name thereto as such Secretary, by the
like order.

472 In Witness Whereof, I have hereunto set my hand and affixed my Official seal, this 10th day of September, A. D. 1877.

CHARLES NETTLETON,
Commissioner for Mississippi in New York.

Filed for record in my office at Corinth, Mississippi, August 29th, 1877, at 12 o'clock.

ROBT. HENDERSON,
Clerk Chancery Court,
Alcorn County.

Filed for registration, August 29th, 1877, at 5 o'clock, P. M.

E. R. TURNER,
Register for McNairy County,
Tenn.

Filed for registration, August 30th, 1877, at 5 o'clock, P. M.

A. M. REYNOLDS,
Clerk of the Chancery Court of Tishomingo County,
Mississippi.

Filed for registration, August 31st, 1877, at 8 o'clock, A. M.

A. W. LIGON,
Judge of the Probate Court of Colbert County,
Alabama.

Filed for record, August 31st, at 2 o'clock, P. M.

JAMES JACKSON,
Judge of the Probate Court of
Lauderdale C'ty.

Filed for registration. September 1st, 1877, at 10 o'clock and 20 minutes.

J. H. McDONALD,
Judge Probate Court of Lawrence County,
Ala.

Filed for record, September 3d, 1877, at 3 o'clock, P. M.

DAVID DAY,
Judge of P. C. of Morgan County,
Ala.

Filed in my office for record, Sept. 4th, 1877, at 8½ o'clock, A. M. Fee not paid.

B. SANDERS,
Judge Probate Court,
Limestone County, Ala.

Filed in my office for registration, September 7th, 1877, at 10:40 o'clock, A. M.

NELSON KYLE,
Judge Probate,
Jackson County, Ala.

STATE OF TENNESSEE, }
Shelby County. }

The foregoing instrument with Clerk's Certificate, was filed in my office for registration on the 25th day of August, 1877, at 5 o'clock P. M., and noted in Note Book No. 9, Page 25, and was recorded on the 27th day of August, 1877, in Record Book No. 120, Page 18, &c. Fee, $25.00. Paid.

$25.00. H. W. GRIEBEL,
Register.

STATE OF TENNESSEE, }
Fayette County. }

The foregoing instrument, with Clerk's Certificate, was filed in my office for registration on the 28th day of August, 1877, at 10 o'clock A. M., and noted in Note Book B, Page 490, and was recorded on the 3d day of September, 1877, in Record Book No. 6, Pages 552 to 584 inclusive.

Fee, $23.00.
Paid.

EDW. W. TATUM,
Register.
By E. R. TATUM,
Dep. Reg.

STATE OF TENNESSEE, }
Hardeman County. }

The foregoing instrument, and Certificate attached thereto, was received and filed for registration in my office on the 28th day of August, 1877, at 4.30 o'clock P. M., and noted in File Book No. 8, Page 84, and was duly registered in Book F of Trust Deeds, &c., pages 388 to 420 inclusive, on this the 29th day of August, 1877.

R. F. AMMONS,
Paid, $19.40. *Register of Hardeman Co.*,
Tennessee.

STATE OF TENNESSEE, }
McNairy County. }

REGISTER'S OFFICE,
Purdy, September 6th, 1877.

On this day the foregoing mortgage and certificates were duly recorded in my office in Trust Book C, Pages 1 to 42 inclusive.

Reg. fees paid, $17.65. E. R. TURNER,
Register McNairy County,
Tennessee.

CERTIFICATE OF RECORD.

THE STATE OF MISSISSIPPI, }
Alcorn County, }

I, ROBERT HENDERSON, Clerk of the Chancery Court of said county, certify that the foregoing mortgage was filed for record on the 29th day of August, A. D. 1877, and is truly recorded in Trust Deed Record No. 4, on Pages 11 to 48 inclusive.

Given under my hand and seal of office this 5th day of September, A. D. 1877.

[L. S.] ROBT. HENDERSON,
Clerk.

Fees, $17.75. Paid.

THE STATE OF MISSISSIPPI, }
Tishomingo County. }

I, A. M. REYNOLDS, Clerk of the Chancery Court of said county, certify that the foregoing mortgage was filed here for record on the 30th day of August, A. D. 1877, and has been duly recorded here in Trust Deed Book 13, pages 202 to 242 inclusive.

Given under my hand and seal of office, at Iuka, Mississippi, this 13th day of September, A.D. 1877.

[L. S.] A. M. REYNOLDS,
Clerk.

Fees Pd., $17.75.

THE STATE OF ALABAMA, }
Colbert County. }

I, ABNER W. LIGON, Judge of the Probate Court in and for said county and State aforesaid, do hereby certify that the foregoing mortgage deed was filed in my office for record on the 31st day of August at 8 o'clock A. M., and was duly recorded together with all certificates of acknowledment in Mortgage and Lien Record, letter "H," pages 388 to 421 inclusive, between the 31st day of August, 1877, and 6th September, 1877, inclusive.

Given under my hand, this the 14th day of September, 1877.

A. W. LIGON,
Judge of Probate Court.

Recording fee, $33.00.
Paid.
A. W. LIGON,
Judge, &c.

THE STATE OF ALABAMA, }
Lauderdale County. }

I, JAMES JACKSON, Judge of the Probate Court for the State aforesaid, hereby certify that the foregoing is a true and correct copy of a deed filed in this office for record on the 31st day of August, 1877, and that the same was recorded in Deed Book A, No. 22, folios 133 to 184 inclusive.

Given under my hand, this the 14th day of September, 1877.

JAMES JACKSON,
Probate Judge.

Fees paid, $32.50.

THE STATE OF ALABAMA, }
Lawrence County. }

I, JAMES H. MCDONALD, Judge of Probate in and for said county, hereby certify that the foregoing conveyance was, on the 1st day of September, 1877, deposited in my office for registration, and was this day duly recorded in Probate Court Mortgage Book No. 4, Pages 423 to 469 inclusive.

Given under my hand this 8th day of September, 1877.

J. H. MCDONALD,
Judge Probate Court.

Fees paid, $32.50.
J. H. MCDONALD.
J. P. C.

E. C. MCDONALD,
Deputy.

THE STATE OF ALABAMA, }
Morgan County. }

I, DAVID DAY, Judge of the Probate Court for the State and County aforesaid, hereby certify that the foregoing is a true and correct copy of a deed filed in this office for record on the 3d day of September, 1877, and that the same was recorded in deed book "R," folios 337 to 378, inclusive.

Given under my hand this the 17th day of September, 1877.

Fees paid $32.50.

DAVID DAY,
Judge of Probate.

THE STATE OF ALABAMA, }
Limestone County. }

I, BARTON SANDERS, Judge of the Probate Court for the State and county aforesaid, hereby certify that the foregoing is a true and correct copy of a deed filed in this office for record on the 4th day of September, 1877, and that the same was recorded in deed book No. 17, from page 356 to 388, both inclusive.

Given under my hand this 18th day of September, 1877.

B. SANDERS,
Judge P. C.

Fees paid, $32.50.

The foregoing attached mortgage was delivered into the office of Probate Court of Madison county, Alabama, for registration on the 5th day of September, 1877, and was duly recorded on the 13th day of September, 1877, in mortgage book No. 3, from pages 1 to 42, inclusive.

WM. RICHARDSON,
Judge of Probate.

Fees paid, $32.50.

STATE OF ALABAMA, }
Jackson County. }

I, NELSON KYLE, Judge of the Probate Court of said county, hereby certify that the above and foregoing mortgage was filed in my office for registration on the seventh day of September, 1877, and duly recorded and compared in mortgage book No. 4, on pages 116 to 159, inclusive.

Given under my hand this 21st day September, 1877.

NELSON KYLE,
Judge Probate Court.

Registration fees paid, $32.50.

RESPONDENT'S EXHIBIT NO. 3. 473
W. H. D. L., Sp'l. Exr.

I, Marshall T. Polk, Treasurer of the State of Tennessee, do hereby certify that Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Company, have this day, in pursuance of the sixth and seventh sections of the Act of the Legislature of Tennessee, entitled "An Act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee," passed February 25th, 1869, filed in my office certified copies 474 of certain resolutions of the Board of Directors of the Memphis and Charleston Railroad Company, and a certain written consent and agreement of said Memphis and Charleston Railroad Company under its corporate seal, duplicate copies of which resolutions and consent and agreement are hereunto annexed.

Given under my hand and official seal this twenty-fifth day of July, eighteen hundred and seventy-seven. 475

MARSHALL T. POLK,
Treasurer.

476

477 At a meeting of the Board of Directors of the
Memphis & Charleston Railroad Company, held in
the city of Memphis, on the thirty-first day of May,
eighteen hundred and seventy-seven.

Present—R. T. Wilson, President; C. M. McGhee,
Vice-President; Messrs. J. R. Mosby, Jerome Hill,
W. S. Hastie, Napoleon Hill, W. W. Garth, J. D.
Rather and George P. Bierne. Upon motion of Mr.
Napoleon Hill, duly seconded, it was resolved, all
478 the members of the Board present voting in favor
thereof, except George P. Bierne, as stated in the
three resolutions next following, viz:

Resolved, That this Board hereby gives its consent
and approbation, and that of the Company,
that Adrian Iselin and Adrian Iselin, Junior, composing
the firm of A. Iselin & Company, of the City
of New York, may, so far as the State of Tennessee
is concerned, pay this Company's indebtedness to
the State of Tennessee for or in respect of the Tennessee
479 State bonds heretofore loaned or delivered to
or in aid of this Company, and for which the State
has a lien in Tennessee State bonds or coupons
thereof, as provided for by the Act of the Legislature
of Tennessee in that behalf, approved February
25th, 1869, and the Acts amendatory thereof,
or supplementary thereto, and that by such payment
said A. Iselin & Company shall acquire and be
entitled to the rights, liens and securities in that
behalf, provided for by the sixth and seventh sections
480 respectively of the said Act of February 25th,
1869.

Resolved, That the President and Secretary of this Company be and are hereby authorized and directed to execute, under this Company's corporate seal, and with their signatures as such President and Secretary, an instrument substantially of the form and effect following, in duplicate, and deliver 581 the same to said A. Iselin & Co., one copy thereof being intended to be filed with the State Treasurer of Tennessee, as follows, that is to say:

KNOW ALL MEN BY THESE PRESENTS, that whereas the Memphis and Charleston Railroad Company is indebted to the State of Tennessee, for or in respect of the amount of the bonds of the said State which were loaned or advanced or delivered to or in aid of said Railroad Company under the general internal 582 improvement laws of said State, or other laws of said State, in that behalf, and for which indebtedness of said Railroad Company the said State holds a lien upon said Company's railroad in the State of Tennessee, and other property of said Company, as provided by law, which indebtedness is for the amount of bonds of said State of Tennessee, originally loaned, issued, or delivered to or in aid of said Railroad Company, and for the amount of certain Tennessee State bonds issued to fund or provide for 583 certain interest upon those bonds, which during a certain period the said Railroad Company failed to provide for; the aggregate amount of principal of such bonds, including those so issued for funding interest, after deducting and giving credit for the amount heretofore paid on account by the Railroad Company to the sinking fund, being sixteen hundred and seventy-one thousand seven hundred dollars, be the same more or less, upon which principal there is due from the Railroad Company 584 to the State about fifteen thousand dollars for interest due on the first day of January last; and interest has accrued and is accruing upon the whole amount of said principal from the first day of January last, and such interest for six months will fall due on the first day of July next.

NOW, THIS INSTRUMENT, which is executed by the

485 said The Memphis and Charleston Railroad Company, under its corporate seal, in pursuance of a resolution of the Board of Directors of said Railroad Company specially authorizing the same, duly passed at a meeting of said Board duly held on the thirty-first day of May instant,

WITNESSETH that the said the Memphis and Charleston Railroad Company, and the Board of Directors of said Company, respectively have given 486 and do give its and their consent and approbation, under and in pursuance of the Act of the Legislature of the State of Tennessee, entitled "An Act to Liquidate the State Debt contracted in aid of Railroad Companies in the State of Tennessee," passed the twenty-fifth day of February, eighteen hundred and sixty-nine, and the Acts of such Legislature in amendment thereof or supplementary thereto, that Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Co., of the City of New York, 487 may, so far as the State of Tennessee is concerned, pay the indebtedness of the Memphis and Charleston Railroad Company to the State of Tennessee for or in respect of the amount of bonds of said State which were heretofore loaned or advanced or delivered to or in aid of said Railroad Company, which indebtedness is that hereinbefore referred to; and that such payment of such indebtedness may be so made by said Adrian Iselin and Adrian Iselin, Junior, in the bonds of the State of Tennessee, or coupons 488 of such bonds, at par, as allowed by the laws of said State in that behalf; and that said Adrian Iselin and Adrian Iselin, Junior, may and shall, upon so paying such indebtedness, to be substituted and entitled to all the liens against said Railroad Company, and against its property, for the payment of such indebtedness that the State of Tennessee had or has by law; and that said Adrian Iselin and Adrian

Iselin, Junior, upon so paying such indebtedness, 489
may receive from the Governor and Secretary of the State of Tennessee such certificate in that behalf as is provided for by the sixth section of the above mentioned Legislative Act of the twenty-fifth day of February, eighteen hundred and sixty-nine. And under and in pursuance of the seventh section of the Act last above mentioned, the said The Memphis and Charleston Railroad Company, and the Board of Directors of said Company, do hereby further respectively assent and agree that said Adrian Iselin 490
and Adrian Iselin, Junior, upon so paying the aforesaid indebtedness of the Memphis and Charleston Railroad Company to the State of Tennessee, so far as said State is concerned, in the bonds or coupons of said State as aforesaid, may and shall, upon filing with the Treasurer of the State of Tennessee this instrument, executed under the corporate seal of said Company, be entitled to have and hold all the lien or liens which the State of Tennessee had or has upon the railroad of said Memphis and Charles- 491
ton Railroad Company, or its property, and shall have the same right to enforce the same which the State of Tennessee had, the object and intent being (and being or hereby declared) in accordance with the seventh section of the said Act of the twenty-fifth day of February, eighteen hundred and sixty-nine, to place the said Adrian Iselin and Adrian Iselin, Junior, so paying such indebtedness, with the consent of said Railroad Company, in the same position and with the same rights which the State of 492
Tennessee had previous to and before the said payment, and with full power to enforce the same.

IN WITNESS WHEREOF the said Memphis and Charleston Railroad Company, in pursuance of a resolution of its Board of Directors as aforesaid, hath hereunto affixed its corporate seal, and caused these

493 presents to be executed on its behalf by its President and Secretary, the thirty-first day of May, eighteen hundred and seventy-seven. And this Board hereby agrees and gives its consent and approbation to everything stated or contained in the instrument above directed to be executed and delivered to said A. Iselin & Co.

Resolved, That the Secretary be directed to furnish to A. Iselin & Co., in duplicate, copies certified by him of these three resolutions.

494

I HERE CERTIFY that the foregoing is a true copy from the minutes of a meeting of the Board of Directors of the Memphis and Charleston Railroad Company, held in the city of Memphis, Tennessee, on the thirty-first day of May, eighteen hundred and seventy-seven.

S. R. CRUSE,
Secretary and Traesurer of the Memphis and Charleston Railroad Co.
(Seal.)

495

KNOW ALL MEN BY THESE PRESENTS, that whereas the Memphis and Charleston Railroad Company is indebted to the State of Tennessee, for or in respect of the amount of the bonds of the said State which were loaned or advanced or delivered to or in aid of said railroad company under the general internal improvement laws of said State, or other laws of said State, in that behalf, and for which indebtedness of said railroad company the said State holds
496 a lien upon said company's railroad in the State of Tennessee, and other property of said company, as provided by law, which indebtedness is for the amount of bonds of said State of Tennessee, originally loaned, issued, or delivered to or in aid of said railroad company, and for the amount of certain Tennessee State bonds issued to fund or provide for certain interest upon those bonds, which during

a certain period the said railroad company failed to 497
provide for; the aggregate amount of principal of such bonds, including those so issued for funding interest, after deducting and giving credit for the amount heretofore paid on account by the railroad company to the sinking fund, being sixteen hundred and seventy-one thousand seven hundred dollars, be the sume more or less, upon which principal there is due from the railroad company to the State about fifteen thousand dollars for interest due on the first day of January last; and interest has accrued and 498
is accruing upon the whole amount of said principal from the first day of January last, and such interest for six months will fall due on the first day of July next.

NOW, THIS INSTRUMENT, which is executed by the said The Memphis and Charleston Railroad Company under its corporate seal, in pursuance of a resolution of the Board of Directors of said railroad company, specially authorizing the same, duly 499
passed at a meeting of the said board, duly held on the 31st day of May, instant.

WITNESSETH, That the said The Memphis and Charleston Railroad Company, and the Board of Directors of said company respectively, have given, and do give its and their consent and approbation, under and in pursuance of the said Act of the Legislature of the State of Tennessee, entitled "An Act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee," 500
passed February 25th, 1869, and the Acts of such Legislature in amendment thereof, or supplementary thereto, that Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Company, of the City of New York, may, so far as the State of Tennessee is concerned, pay the indebtedness of the Memphis and Charleston Railroad Company to

501 the State of Tennessee for or in respect of the
amount of bonds of said State, which were heretofore loaned or advanced or delivered to or in aid of
said railroad company, which indebtedness is that
hereinbefore referred to, and that such payment of
said indebtedness may be so made by said Adrian
Iselin and Adrian Iselin, Junior, in the bonds of
the State of Tennessee or coupons of such bonds at
pao, as allowed by the laws of said State in that
behalf, and that said Adrian Iselin and Adrian
502 Iselin, Junior, may and shall, upon so
paying such indebtedness, be substituted and
entitled to all the liens against said railroad company and against its property for the payment of
such indebtedness that the State of Tennessee had
or has by law; and that said Adrian Iselin and
Adrian Iselin, Junior, upon so paying such indebtedness may receive from the Governor and Secretary
of State of Tennessee such certificate in that behalf
as is provided for by the sixth section of the above-
503 mentioned legislative act of February 25th, 1869.

And under and in pursuance of the seventh section of the act last above mentioned the said The
Memphis and Charleston Railroad Company, and
the Board of Directors of said Company, do hereby
further respectively assent and agree that said
Adrian Iselin and Adrian Iselin, Junior, upon so
paying the aforesaid indebtedness of the Memphis
and Charleston Railroad Company to the State of
504 Tennessee, so far as the said State is concerned, in
the bonds or coupons of said State, as aforesaid,
may and shall, upon filing with the Treasurer of the
State of Tennessee this instrument, executed under
the corporate seal of said Company, be entitled to
have and hold all the lien or liens which the State
of Tennessee had or has upon the Railroad of said
Memphis and Charleston Railroad Company or its

property, and shall have the same right to enforce 505 the same which the State of Tennessee had, the object and intent being (and being so hereby declared) in accordance with the seventh section of the said Act of February 25th, 1869, to place the said Adrian Iselin and Adrian Iselin, Junior, so paying such indebtedness, with the consent of said Railroad Company, in the same position and with the same rights which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same. 506

In witness whereof, the said The Memphis and Charleston Railroad Company, in pursuance of a resolution of its Board of Directors, as aforesaid, have hereunto affixed its corporate seal and caused these presents to be executed on its behalf by its President and Secretary, the thirty-first day of May, eighteen hundred and seventy-seven.

The Memphis and Charleston Railroad Co., 507
By R. T. WILSON,
President.

The Memphis and Charleston Railroad Co.,
[L. S.] By S. R. CRUSE,
Secretary and Treasurer.

State of Tennessee,
County of Shelby. 508

Personally appeared before me Hunsdon Cary, a Notary Public in and for said county, duly commissioned and qualified, S. R. Cruse, Secretary and Treasurer of the Memphis and Charleston Railroad Company, who is personally known to me both in his person and as such Secretary and Treasurer, who, being duly sworn, deposes and says and ac-

509 knowledges that he executed the foregoing instrument, being acquainted with its contents, for the purposes therein stated, in the interest and on the behalf of the Memphis and Charleston Railroad Company, and under authority granted him by resolution of the Board of Directors of said Company, passed at a meeting of said Board of Directors on the thirty-first day of May, eighteen hundred and seventy-seven.

510 Witness my hand and notarial seal this June ninth, A.D. eighteen hundred and seven-seven.

HUNSDON CARY,
Notary Public.

We, James D. Porter, Governor of the State of Tennessee, and Charles N. Gibbs, Secretary of State of the State of Tennessee, do hereby certify, that Adrian Iselin and Adrian Iselin, Junior, composing
511 the firm of A. Iselin & Co., of the City of New York, have this day filed with the Treasurer of the State of Tennessee the written consent of the Board of Directors of the Memphis and Charleston Railroad Company, and likewise the written assent and approbation of the said The Memphis and Charleston Railroad Company, under the corporate seal of the said Railroad Company, that the said Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Co., may, under and in pursu-
512 ance of the sixth and seventh sections of the Act of the Legislature of the State of Tennessee, entitled "An Act to Liquidate the State Debt contracted in aid of Railroad Companies in the State of Tennessee," passed the twenty-fifth day of February, eighteen hundred and sixty-nine, and the Acts of such Legislature in amendment thereof or supplementary thereto, pay, so far as the State of Tennes-

see is concerned, in bonds of the State of Tennessee, or coupons of such bonds, at par, as by law of the State of Tennessee is authorized, the amount of the indebtedness hereinafter mentioned of the said Memphis and Charleston Railroad Company to the State of Tennessee; and that said Adrian Iselin and Adrian Iselin, Junior, composing the firm aforesaid, shall thereby and thereupon, as provided by the sixth section of said Act, be substituted and entitled to all the liens against said Company for the payment of said debt that the State of Tennessee had or has by law, and shall thereby and thereupon, as provided by the seventh section of said Act, be entitled to have and hold all the lien or liens which the State of Tennessee had or has upon said railroad, or its property, and shall have the same right to enforce the same which the State of Tennessee had, the object and intent being thereby declared to be to place the said Adrian Iselin and Adrian Iselin, Junior, so paying, with the consent of said Railroad Company, in the same position, and with the same rights, which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same.

AND WE DO FURTHER CERTIFY that the said Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Co., have thereupon, with the consent and approbation of the said Railroad Company, and of the Board of Directors thereof, and under and in pursuance of and in accordance with the said sixth and seventh sections of the aforesaid Act of the twenty-fifth day of February, eighteen hundred and sixty-nine, and the other laws of the State of Tennessee, in that behalf paid to the State of Tennessee, in the bonds of said State, and coupons of such bonds, at par, as allowed by law, the amount of indebtedness of the the said The Memphis and Charleston Railroad

517 Company to the State of Tennessee, and for which
the State of Tennessee holds a lien by law upon
said Company's railroad in the State of Tennessee,
and other property, which indebtedness is for or in
respect of the amount of the bonds of the State of
Tennessee which under the general improvement
law passed the eleventh day of February, eighteen
hundred and fifty-two, and the other Acts of the
Legislature of said State, were originally loaned,
issued, or delivered to or in aid of said Company,
518 and for the amount of certain Tennessee State
bonds issued to fund or provide for certain interest
upon those bonds, which during a certain period
the said Railroad Company failed to provide, the
aggregate amount of the principal of such State
bonds, including those so issued for funding interest,
after deducting and giving credit for the
amount heretofore paid on account by the Railroad
Company to the sinking fund being sixteen hundred
and sevetny-one thousand nine hundred and
519 sixteen dollars and twenty-five cents; as also the
further amount of sixty-four thousand nine hundred
and ninety dollars for interest accrued up to
the first day of July instant upon the before-mentioned
amount of sixteen hundred and seventy-one
thousand nine hundred and sixteen dollars and
twenty-five cents, making the whole amount of such
indebtedness of said Railroad Company to the State
of Tennessee, and for which the State holds a lien
as aforesaid, the aggregate sum of seventeen hundred
520 and thirty-six thousand nine hundred and six
dollars and twenty-five cents, exclusive of interest
accrued since the first day of July instant, which
aggregate sum or amount, together with the interest
accrued thereon since the first day of July instant,
the said Adrian Iselin and Adrian Iselin, Junior,
composing the firm of A. Iselin & Co., have this
day, in the manner and under the circumstances

aforesaid, paid to the State of Tennessee, in Tennessee State bonds and coupons, at par, as allowed by the laws of said State; and we do further certify and declare that thereupon, and under and in pursuance of the sixth and seventh sections of the said Act of the twenty-fifth day of February, eighteen hundred and sixty-nine, and the other Acts of the Legislature of the State of Tennessee in that behalf, the said Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Co., have become and are the purchasers and assignees of the above-mentioned indebtedness of The Memphis and Charleston Railroad Company to the State of Tennessee, with all the liens held by the said State therefor, and with all the rights in that behalf accorded or authorized by the said sixth and seventh sections respectively of said Act of the twenty-fifth day of February, eighteen hundred and sixty-nine, and the same are declared to be and are hereby assigned and transferred to them accordingly; and under and in accordance with the sixth section of the said Act of the twenty-fifth day of February, eighteen hundred and sixty-nine, it is hereby declared that the said Adrian Iselin and Adrian Iselin, Junior, are substituted and entitled to all the liens against said Railroad Company for the payment of said indebtedness that the State of Tennessee had or has by law, and under and in accordance with the seventh section of said Act of the twenty-fifth day of February, eighteen hundred and sixty-nine, it is hereby declared that said Adrian Iselin and Adrian Iselin, Junior, are entitled to have and hold all the lien or liens which the State of Tennessee had or has upon said Memphis and Charleston Railroad or its property, and shall have the same right to enforce the same which the State of Tennessee had; the object and intent being, and being hereby de-

525 clared to be, to place the said Adrian Iselin and Adrian Iselin, Junior, composing the firm of A. Iselin & Co., in the same position, and with the same rights, which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same.

IN WITNESS WHEREOF we have hereunto set our hands and official seals this twenty-fifth day of July eighteen hundred and seventy-seven.

(Signed) JAS. D. PORTER,
526 *Governor of Tennessee.*

(Seal of State of Tennessee.) CHAS. N. GIBBS,
Secretary of State.

527

528

Deposition of Morris K. Jessup.

UNITED STATES CIRCUIT COURT, 1

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the MEMPHIS & CHARLESTON R. R. Co.

vs. 2

THE MEMPHIS & CHARLESTON R. R. Co. *et al.*

Testimony and proofs for final hearing, taken on the part of the respondents in the above-entitled suit, under and pursuant to the 67th Rule in Equity, as amended, before William H. DeLancey, Special Examiner, duly appointed herein. 3

52 Broadway,
New York, Feb. 21, 1880.

Present—Mr. W. Y. C. HUMES,
for Respondents, 4

Mr E. L. ANDREWS,
for Complainants.

5 **Morris K. Jessup**, a witness, produced on the part of the respondents, being first duly cautioned and sworn in the above-entitled suit to testify the truth, the whole truth and nothing but the truth, deposes and says:

(Deposition taken subject to all legal objections of both parties.)

Direct examination by **Mr. Humes**:

6 1 Q. What is your residence and business and how long have you so resided and done business?

A. My residence is New York city, and my business that of a banker, and I have been in business for twenty-five years.

2 Q. Were you a purchaser of substitution railroad bonds of any railroad in Tennessee; if yea, when did you buy them, what amounts, and at what price, and what did you pay for them?

A. I bought substitution bonds of the Memphis 7 and Charleston Railroad Company. I can't give the exact date. I think about three years ago. I bought $50,000. I think the price was about 75. I paid in cash.

3 Q. When you bought them did you or not have any information of any claim by the holders of the State bonds of Tennessee that they had a lien on the road, or did you buy them in the confident belief that these substitution bonds carried and were supported by the lien from the State?

8 A. I bought these bonds with the assurance that they took the place of the State lien on the road, and that all the lien of the State on this road was subrogated to these bonds, and it was that fact that induced me to take these bonds at that price at that time.

4 Q. What was your information as to the holders of Tennessee State bonds, and their overdue unpaid coupons?

A. I had no particular information on that point. 9

5 Q. Did you or not know or have the information that the State of Tennessee during the war and for a number of years after the war failed to pay the interest coupons on her State bonds, and the holders had funded them into new State bonds under the acts of 1865, 1868 and 1873?

A. I knew the general fact that the State of Tennessee had defaulted on her coupons about the time stated, and that the same had been funded into new bonds. 10

Direct examination closed.

Cross examination by MR. ANDREWS.

6 x Q. From whom did you have the assurance that the bonds you were about purchasing were entitled to the Tennessee lien?

A. From Mr. R. T. Wilson; and then I called upon Mr. Southmayd.

7 x Q. What did you discuss with Mr. Southmayd? 11

A. I don't remember now; I knew that he had examined the question of the legality of this matter and the title to the lien.

8 x Q. What did R. T. Wilson say?

A. I can't tell; all I know is the impression I received as to the legality of the bonds; I cannot go into the details; I do not remember them.

9 x Q. Did R. T. Wilson tell you (or show to you) an opinion of Judges Davies and Davis to the effect that those bonds did not have a lien on the Memphis and Charleston Railroad, but that the lien belonged to Tennessee State bonds? 12

A. I never saw such an opinion, at least I don't remember it; Wilson (not that I remember of) never told me of that opinion.

10 x Q. Did you ever hear of any litigation con-

13 cerning this matter, and what did you hear, if anything?

A. I heard, in a general way, that the Tennessee bondholders claimed the lien on the Tennesse Railroad, but this was after I purchased the bonds.

11 x Q. When and at what price did you sell the bonds which you have stated you did sell?

A. I sold the bonds September 29, 1877, at 85 and interest.

14 *Re-direct* by Mr. HUMES:

12 Q. The Davies and Davis opinion in the cross-examination referred to was uttered early in 1870; do you not know the fact that no State bondholder from 1870 to 1878 ever did, under the influence of that celebrated opinion, claim or demand the payment of a single interest coupon of a Tennessee State bond from any railroad company in Tennessee, nor institute any legal proceeding looking toward such a purpose?

15 A. I remember nothing on the subject.

Re-cross by Mr. ANDREWS:

13 x Q. Was not Henry E. Davies shortly before that time the chief judge of the Court of Appeals of the State of New York, and was not Noah Davis shortly before that time a Justice of the Supreme Court of the State of New York?

A. I cannot say.

16 MORRIS K. JESSUP.

Subscribed and sworn to be-
fore me, this 27th day of
February, A. D. 1880.

WILLIAM H. DELANCEY,
Special Examiner.

I, William H. DeLancey, Special Examiner, duly 17
appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the above-entitled suit in the City of New York, do hereby certify that on the several days named in the deposition hereto annexed I was attended at my office, No. 52 Broadway, in the City of New York, by the counsel and witness aforesaid. That the said witness was duly cautioned and sworn in the above-entitled suit, and the deposition was reduced 18
to writing and read to the witness, and by him subscribed in my presence.

Dated, February 27, 1880.

WILLIAM H. DeLANCEY,
Special Examiner.

19

20

Deposition of Thomas Denny.

UNITED STATES CIRCUIT COURT,

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the MEMPHIS & CHARLESTON R. R. Co. 1

vs.

THE MEMPHIS & CHARLESTON R. R. Co. *et al.* 2

Testimony and proofs for final hearing on the part of the respondents in the above-entitled suit, taken under and pursuant to the 67th Rule in Equity, as amended before William H. DeLancey, Special Examiner, duly appointed herein. 3

NEW YORK, March 8, 1880.

Present—MR. CHAS. H. TWEED, *for Respondents.*
MR. E. L. ANDREWS, *for Compl't's.*

THOMAS DENNY, a witness produced on the part of the respondents herein, being first duly cautioned and sworn in the above-entitled suit to testify 4 the truth, the whole truth and nothing but the truth, deposes and says:

(Deposition taken subject to all legal objections of both parties.)

5 *Direct-examination* by Mr. Tweed :

1 Q. Please state your name, age, residence and occupation ?

A. Thomas Denny; aged 46; I reside in New York City, and am a banker and broker.

2 Q. Are you a member of New York Stock Exchange ?

A. I am.

3 Q. How long have you been a member of the
6 Stock Exchange ?

A. Since 1858 or '59.

4 Q. Were you before that time also employed as clerk in the same business ?

A. I was.

5 Q. During the period of your membership of the N. Y. Stock Exchange and your clerkship anterior thereto, have you been familiar with the manner of conducting transactions on the Exchange in Tennessee Bonds ?

7 A. Yes.

6 Q. Please state how such dealings were conducted before the war, and into what classes Tennessee State Bonds were then divided ?

A. They were bought and sold by open call at the Stock Exchange, and the classes into which they were divided were Tennessee 5s and Tennessee 6s.

7 Q. How were the contracts made between members of the Exchange in regard to those bonds entered into, and how were they recorded ?

8 A. Contracts were made by the members between themselves orally, and such as they desired were recorded by the secretary on his books kept for that special purpose.

8 Q. Did those contracts specify the object for which the bonds dealt in were issued, or the distinctive numbers of the bonds to be delivered under the contracts ?

A. The contracts did not state the object or numbers, but simply to the class, whether 6s or 5s. '9

9 Q. So that a person purchasing Tennessee 5s or Tennessee 6s, at the Stock Exchange, would not, at the time of making the purchase, nor until delivery was made under the contract, know the distinctive numbers of the bonds which he was to receive thereunder ?

A. He would only know until delivery that he was to receive so many thousand dollars of 6s or 5s, without any other distinctive circumstances. No 10
distinction was made on account of the objects for which bonds were issued by the State.

10 Q. What change has taken place since the war in the classification at the Stock Exchange of Tennessee State Bonds ?

A. Since the war the Tennessee 6s have been divided into Tennessee "olds," being the bonds issued before the war; Tennessee "new," being the bonds issued since the war, and Tennessee "new series," being the bonds issued for funding purposes. 11

11 Q. In other respects has the manner of dealing in these bonds at the Stock Exchange continued the same to the present time.

A. It continues the same except that the secretary's record is dispensed with, and in time contracts, written contracts, are exchanged between the members.

12 Q. In the oral dealings or the written contracts between the members is there any specification of the objects for which the bonds dealt in were issued 12
by the State, or the distinctive numbers of the bonds to be delivered ?

A. There is not.

13 Q. So that a broker does not know until delivery is actually made what bonds of the classes "Old," "New" and "New Series" he will receive under his contract ?

13 A. He knows the class, but neither numbers nor
object for which the bond was issued.

14 Q. Did you ever know or hear of any contracts being made in the Exchange for the purchase or sale of Tennessee State bonds bearing any particular distinctive numbers, or issued for any particular purpose?

A. No such contracts were ever made on the Exchange.

15 Q. What proportion of the Tennessee State
14 bonds which are bought and sold in New York are
bought and sold in the New York Stock Exchange?

A. According to my knowledge they were almost exclusively bought and sold at the Stock Exchange.

16 Q. Did you ever hear of any Tennessee State bond being bought or sold in or out of the Stock Exchange as carrying a lien on any railroad in Tennessee to which the bond was loaned.

15 A. I never have.

17 Q. Have you dealt extensively in Tennessee State bonds since you have been a member of the Stock Exchange?

A. I have.

THOMAS DENNY,
30 Pine street,
New York.

Subscribed and sworn to before me,
16 this 8th day of March, 1880.

WILLIAM H. DELANCEY,
Special Examiner.

I, William H. DeLancey, Special Examiner, duly 17
appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proof of both parties in the above-entitled suit in the City of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at my office, No. 52 Broadway, New York City, by the counsel and witness aforesaid. That the said witness was duly cautioned and sworn in the above-entitled suit and examined, and the deposition was reduced to 18
writing and read to the witness and by him subscribed in my presence.

Dated 8th March, 1880.

WILLIAM H. DeLANCEY,
Special Examiner.

19

20

1264

Deposition of James P. Wallace. 1

CIRCUIT COURT OF THE UNITED STATES,

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis & Charleston R. R. Co., 2

against

THE MEMPHIS & CHARLESTON R. R. Co. *et al.*

Testimony and proofs for final hearing on the part of the Respondents, taken under and pursuant to the 67th Rule in Equity, as amended, before Willian H. DeLancey, Special Examiner, duly appointed herein. 3

NEW YORK, March 9th, 1880.

Present—Mr. CHAS. H. TWEED, *for Respd'ts;* 4
Mr. E. L. ANDREWS, *for Compl'ts.*

JAMES P. WALLACE, a witness produced on the part of the respondents herein, being first duly

5 cautioned and sworn in the above-entitled suit, to testify the truth, the whole truth and nothing but the truth, deposes and says:

(Deposition taken subject to all legal objections of both parties.)

Direct Examination by Mr. Tweed:

1 Q. Please state your name, age, residence and occupation?

6 A. James P. Wallace; aged 63; I reside in Brooklyn; I am President of the N. Y. Guaranty and Indemnity Co.

2 Q. How long have you been President of that Company?

A. Since 1870 I think, previous to that I was Vice-President from the organization in 1865.

3 Q. What was the general character of the business carried on by the Guaranty and Indemnity Co.?

7 A. Loaning money on securities and merchandise.

4 Q. In the course of the dealings of that Company did it lend money to large amounts upon Tennessee State bonds?

A. We did so to large amounts and at various times extending through almost all the period of business from 1865 to 1875, when we withdrew from the business of making any loans.

5 Q. In the course of the dealings of the Guarantee & Indemnity Co. in Tennessee State bonds 8 was any discrimination ever made based upon the objects for which the bonds were issued by the State, whether for railroads, banks, turnpikes, the Capitol, Hermitage or the Agricultural Bureau, or did you ever inquire as to which of these objects any bonds presented to you were issued for?

A. After we commenced business, finding that the Tennessee bonds offered to us were of various

classes, I went to the Bond Committee of the Stock 9
Exchange and to the Secretary of that Committee for
information as to what bonds were a good delivery
at the Stock Exchange. The information I obtained
led me to consider all the old bonds, bonds issued
before the war which were not mutilated by endorsements
written upon them, or otherwise mutilated,
were a good delivery without respect
to the objects for which they had been issued, on a
sale of "Old Bonds," and that all Tennessee State
bonds issued after the war were a good delivery on 10
a sale of "New bonds" without respect to the object
for which they had been issued. And in our
receiving Tennessee State bonds as collateral for
loans we acted under that information, and we made
no discrimination or enquiry in respect to the object
for which the bonds had been issued.

6 Q. You have spoken of "endorsements" written
upon certain old State bonds; please state the facts
in respect to such endorsements.

A. The endorsements were to the effect that the 11
bond was the property of some person or corporation.
Something like a notice to the public that the
bond belonged to some particular person. I understood
these endorsed bonds were not a good delivery
even if there was a subsequent endorsement to
bearer, and we therefore rejected them.

7 Q. Did the Guaranty and Indemnity Company,
in or about 1870, become the purchasers of any of
the substitution bonds issued by the Nashville & Decatur
R. R. Co? 12

A. In December, 1870, the New York Guaranty
and Indemnity Company jointly with Drexel, Winthrop
& Co., A. Iselin & Co., and R. T. Wilson &
Co., agreed to purchase about $1,600,000 of such
bonds, participating in the purchase to the extent
of one fourth each, and on the 3d of May, 1871, we

13 received our share of such bonds, and paid for them.

8 Q. At the time that your company became purchasers of these bonds had you any knowledge of any claim of any holders of bonds issued by the State of Tennessee, and loaned to the Nashville & Decatur R. R. Co., or its predecessors, that they had any lien or claim upon the property of that company or its predecessors?

A. We had not.

14 9 Q. Did your company, in connection with Drexel, Winthrop & Co., issue the advertisement for the sale of these bonds now shown you?

A. Yes, we did. It is as follows, and it appeared in the leading papers in New York and in a Brooklyn paper; and also a circular:

December 31, 1870.

FINANCIAL.

SEVEN PER CENT. FIRST MORTGAGE BONDS

15 OF THE

NASHVILLE AND DECATUR RAILROAD.

The mortgage is for $2,100,000, or only $17,500 per mile, on an old and completed road, showing an established business, from local traffic, mainly more than sufficient to pay its interest as it becomes due, with prospects of greatly enlarged receipts from new connections which are now in progress.

This mortgage was created for the sole purpose of paying a debt due to the State of Tennessee, on terms which would reduce the liability of the road about $600,000.

Of the bonds issued under said mortgage $200,000 are held in escrow
16 to abide settlement of a claim of the United States; $300,000 have been
purchased by the parties in interest, and the balance of $1,600,000 are
offered for sale on favorable terms; the security, in the judgment of the
undersigned, being such as to entitle them to perfect confidence.

Drexel, Winthrop & Co.,
18 Wall Street.
New York Guaranty and Indemnity Co.,
52 Broadway and Exchange Court.

10 Q. Was there endorsed upon those bonds a 17
certificate of the Comptroller of the State of Tennessee in the form now shown to you?

A. Yes. This is the certificate:

> "I certify that the Nashville & Decatur Rail-
> "road Company has paid off the debt to the
> "State of Tennessee, which was created by
> "the loans of the bonds of said State, and
> "for interest thereon, and that this bond is
> "secured by a first mortgage, and is issued 18
> "under authority of law, and takes the place
> "of the lien which was held by the State.
>
> "ED. R. PENNEBAKER,
> "*Comptroller of the State of Tennessee.*
> "By P. C. CALHOUN, *Prest. Agent.*"

11 Q. If the holders of any of the bonds of the
State of Tennessee which had been loaned to the
Nashville & Decatur R. R. Co., or its predecessors
had asserted any lien or claim upon the property of 19
that company by virtue of those bonds, would you
have made the purchase?

A. If we had known of any such claim, we certainly would not, nor would we have recommended them nor inserted the advertisement produced.

12 Q. Did any of the directors, or persons connected with your company become purchasers of any of those bonds?

A. Yes, sir. I took some myself, and I think
Wm. A. Low, S. D. Babcock, Wm. Allen Butler 20
and Geo. W. Parson purchased some of them.

JAMES P. WALLACE.

Subscribed and sworn to before me
this 9th day of March, A.D. 1880.

WILLIAM H. DELANCEY,
Special Examiner

21 I, William H. DeLancey, special examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the above-entitled suit, in the city of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at my office, No. 52 Broadway, in the city of New York, by the counsel and witness aforesaid. That the said witness was duly cautioned and sworn in the above-en-
22 titled suit and examined, and the deposition was reduced to writing, and read to the witness, and by him subscribed in my presence.

Dated March 9th, 1880.

WILLIAM H. DeLANCEY,
Special Examiner.

23

24

1

Deposition of James A. Roosevelt.

CIRCUIT COURT OF THE UNITED STATES,

WESTERN DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement bonds of Tennessee, issued to the Memphis & Charleston R. R. Co. 2

vs.

THE MEMPHIS & CHARLESTON R. R. Co. *et al.*

3

Testimony and proofs for final hearing on the part of the respondents, taken under and pursuant to the 67th Rule in Equity, as amended; taken before WILLIAM H. DELANCEY, Special Examiner duly appointed herein.

NEW YORK, March 12, 1880. 4

Present—Mr. CHAS. H. TWEED, for respondents.
Mr. E. L. ANDREWS, for complainants.

5 **James A. Roosevelt**, a witness produced upon the part of the respondents in the above-entitled suit being first duly cautioned and sworn therein, to testify the truth the whole truth, and nothing but the truth, deposes and says:

(Deposition taken subject to all legal objections of both parties.)

Direct-examination:

6 1 Q. Please state your name, age, residence and occupation?

A. James A. Roosevelt; fifty-four years of age; reside in New York city, and am a banker.

2 Q. How long have you been acquainted with the markets of New York in respect of the securities dealt in, in such markets?

A. More than thirty years; during which time I have been carrying on the business of merchant and banker in New York.

7 3 Q. After the settlement made by the East Tennessee, Va. & Ga. R. R. Co. with respect to its indebtedness to the State of Tennessee, did you become the purchaser for yourself or others of any of the substitution first mortgage bonds of that company which were issued upon such settlement?

A. Yes; I did both individually, and for other parties for whom I had money to invest.

4 Q. After that settlement was made, did you become a purchaser of any of the shares of stock of the
8 East Tennessee, Va. & Ga. R. R. Co.?

A. I did, in connection with my brother, to the extent of $78,000.

5 Q. At the time of the purchase of those bonds or that stock had you ever heard of any claim being asserted by any of the holders of bonds of the State of Tennessee that these bonds were liens upon the roads to which the bonds were loaned by the State?

A. With regard to the stock I had no information 9
of any such claim whatever; with regard to the great majority of the bonds I can say the same thing; I may have purchased recently a few bonds since I heard of this suit.

6 Q. Did you also become the purchaser of any of the first mortgage substitution bonds of the Memphis & Charleston R. R. Co., which were secured by the transfer of the State lien to A. Iselin & Co., and by them to the Farmer's Loan & Trust Co.?

A. I have purchased and hold a large number of 10
those bonds at the present time.

7 Q. Did you consider the transfer of the State lien as security for those Memphis & Charleston bonds a material element in respect of the value of those bonds?

A. Most assuredly.

8 Q. At the time when you purchased those bonds had you heard of any claim being asserted that any of the holders of the bonds of the State of Tennessee loaned to Railroads had any lien upon those 11
Railroads to which those bonds were loaned?

A. I never heard of any such claim being made.

9 Q. Did you ever hear of any of the bonds of the State of Tennessee being bought or sold as carrying any lien in favor of the bondholders upon the Railroads to which those bonds had been loaned?

A. No; I never had heard of any sales being made in which it was set up that there was any claim upon the railroads; I never heard of any such claim being made until after the commencement of this suit. 12

J. A. ROOSEVELT.

Subscribed and sworn to before
me, this 12th day March, A.D.
1880.

WILLIAM H. DELANCEY,
Special Examiner.

13 I, William H. DeLancey, special examiner, duly appointed by the Circuit Court of the United States for the Western District of Tennessee, to take the testimony and proofs of both parties in the above-entitled suit, in the city of New York, do hereby certify that on the several days named in the deposition hereto annexed, I was attended at my office, No. 52 Broadway, in the city of New York, by the counsel and witness aforesaid. That the said witness was duly cautioned and sworn in the above-entitled
14 suit and examined, and the deposition was reduced to writing, and read to the witness, and by him subscribed in my presence.

Dated April 3d, 1880.

WILLIAM H. DeLANCEY,
Special Examiner.

15

16

Deposition of J. W. Thomas.

Witness on behalf of the defendant in the above- 1
entitled causes.

The said witness, being first by me sworn and cautioned, deposes and says:

My name is J. W. Thomas. Have been engaged
in the railroad service 21 years. Am 49 years old,
and reside in Nashville, Tennessee, and am now
and have been since 1868 the Superintendent of the
Nashville & Chattanooga Railroad Company. W.
P. Innis and D. B. Cliffe were Receivers, appointed 2
by the State, of the Nashville & Northwestern Rail-
road Company, and D. E. Davenport was Receiver
of the Winchester & Alabama, and of the McMinn-
ville & Manchester Railroad Companies in the order
named. Said appointments were made since the
war. The Nashville & Chattanooga and St. Louis
Railway have purchased the three roads named.
The Nashville and Northwestern was purchased at
a sale of the Chancery Court at Nashville, and the
McMinnville & Manchester road and the Winchester 3
& Alabama Railroads were purchased from the
Memphis & Charleston Railroad Company. The
last-named company purchased the said roads from
a company of citizens along the several roads, who
had purchased at Chancery sale.

The Nashville Chattanooga & St. Louis Rail-
way gave $2,400,000 in Tennessee bonds for the
Nashville & Northwestern Railroad, and gave the
Memphis & Charleston R. R. Co. $320,000 in our
six per cent. bonds for the Winchester & Alabama 4
and the McMinnville & Manchester Railroads.

The sum paid for the last two mentioned roads was in the bonds of the Nashville, Chattanooga & St. Louis Railway, secured by mortgage liens on the two roads purchased. A printed copy of the mortgage is here filed, marked exhibit "A," and referred to and made a part of my evidence in these causes. These several sums have been paid and title given.

Exhibit X to the answer of defendant shows the terms of sale and decree of confirmation, and exhibit "Y," here filed and made a part hereof of the contract of purchase and deed to McMinnville & Manchester, and Winchester & Alabama Railroads.

After the purchase, and in 1872, the two roads, the Nashville & Chattanooga and the Nashville & Northwestern Railroads were consolidated under the name of the Nashville, Chattanooga & St. Louis Railway. The consolidated road, the Nashville, Chattanooga & St. Louis Railway, issued the first mortgage consolidated bonds to the amount of $6,800,000, giving a lien on the entire line from Chattanooga to Hickman, Ky., of which exhibit Z, here filed and made a part hereof, is a true copy. The originals of these several mortgages are in the hands of the Trustee in New York. The Nashville & Chattanooga and Nashville & Northwestern, together with their branches, is 341 miles long. The Nashville & Northwestern is 170 miles long, the Nashville & Chattanooga, from Nashville to Chattanooga, is 151 miles, the branch to Shelbyville is 8 miles, and from Bridgeport to Jasper 12 miles, making, as above stated, 341 miles.

The first 35 4-10 miles of the Nashville & Northwestern Railroad, from its western terminus extends from Hickman, Ky., to Dresden, Tenn. The 10 miles, commencing at Nashville, of the eastern division, extends from Nashville to Vaughn's Gap, and the next section, commencing at Vaughn's Gap,

extends to Pegram, ten miles. The next section, 9
commencing at Dresden and extending 13½ miles,
would bring it near McKenzie. And the next section
of 16½ miles from that point, extends to about
3 miles east of Huntingdon. The first section of 10
miles east of the Tennessee River extends from
Johnsonville to within two miles of Waverly.
These 12 miles, commencing at Pegram, would extend
two miles west of White Bluffs. Commencing
3 miles east of Huntingdon, 13 miles would
bring us to within 5 miles of Camden, and then 10
12 miles therefrom would bring us to Johnsville.
The Nashville & Chattanooga Railway Company
took possession of the Nashville & Northwestern
Railroad under a lease 1st September, 1878. We
operated under the lease 16 months, until 1st January,
1870.

I herewith file a true copy of said lease and make
it a part of my deposition, marked Exhibit No. 1.

Under this lease the expenditures exceeded the
receipts by $13,328.06. 11

We re-leased the said road from the State from
January, 1870, to July, 1871. Under this lease the
expenditures exceeded the receipts by $377,079.23.
The first year after the purchase we expended in repairs
and betterments on said road the sum of $476,937.25
over above gross receipts. The road was in a
wretched condition and unsafe to run trains over;
the road was leased from the Receiver, Cliffe

At the close of the war the McMinnville & Manchester
Railroad had been stripped of all its iron 12
rails. The Government had taken them. The
Winchester & Alabama had very little, if any, iron
rails, having been also taken by the Government,
and had no rolling stock. The McMinnville & Manchester
Railroad had two old engines; the other
rolling stock was destroyed down South, except one
or two old box cars.

13 The Nashville & Northwestern Railroad had, when we took charge of it under our first lease, seven old engines and no other rolling stock of any consequence, not including the rolling stock purchased from the Government and paid for by the Nashville & Chattanooga R.R. Co.

I think we paid more than the N. & N. W. R.R. was worth, and the operation of the road has not paid the interest on the investment By economical management we may possibly make running 14 expenses and six per cent. interest on the $320,000 paid for the McMinnville & Manchester Railroad and the Winchester & Alabama Railroad, and do not think we can do more.

Cross examined:

I was not connected with the McMinnville & Manchester nor with the Winchester & Alabama Railroads before their purchase by the Nashville & Chattanooga Railroad Company, except for a short 15 time. I run the last-mentioned railroad for its President, W. H. Moore.

The Nashville & Northwestern Railroad Company bought from the United States Government a large amount of rolling stock after the war, amounting to $400,000.

My impression is that the rails taken from the McM. & M. R.R. were put down on the N. & C. R. R. This was during the war, and in my absence from the State.

16 The McMinnville & Manchester Railroad was re-ironed before the purchase by the N. & C. R. R. It had also bought two engines and a few cars from the Government.

The Winchester & Alabama Railroad was also re-ironed and equipped with a small amount of rolling stock before the said purchase by the N. & C. R.R.

The Receiver leased the McMinnville & Manchester Railroad to Huggins & Price, but I do not know at what rental. I think the two roads have always paid operating expenses. 17

Re-examination:

Neither the Northwestern, the McMinnville & Manchester ever paid the Government for the rolling stock purchased by them, and the Government claims a lien on the property sold.

The witness being interrogated upon his means of knowledge as to the lien retained by the U. S. Government, answers that his information is derived from having seen the papers containing the contract of sale between the Government and said companies, whereupon the counsel for complainant objects to the answer as being incompetent, the original papers being the best evidence. 18

Since the purchase of the Nashville & Northwestern R.R. by our company, the Nashville, Chattanooga & St. Louis Railway has settled with the Government for the rolling stock purchased by the N. & N. W. R.R. from the United States. 19

In the matter of the purchase by the McMinnville & Manchester of the rolling stock from the U. S., a bill is now pending in the United States Circuit Court for the Middle District of Tennessee to enforce their lien and collect the amount of said purchase.

J. W. THOMAS.

Subscribed and sworn to be- }
fore me, this Aug. 29, 1879. } 20

E. R. Campbell,
Examiner.

Deposition of H. L. Claiborne. 1

UNITED STATES CIRCUIT COURT,

DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the RAILROAD COMPANY, 2

versus

THE RAILROAD COMPANY.

Deposition of H. L. CLAIBORNE, witness for defendants, taken in Nashville, Tennessee, March 11th, 1880, before L. W. HUMES, Special Examiner, duly appointed under an order of the United States Circuit Court, Western District of Tennessee. 3

Taken pursuant to agreement.

Present, W. Y. C. HUMES, for defendants.

H. L. CLAIBORNE, being first duly sworn, deposed as follows: 4

I will be sixty-one years old in a few days; I have resided in Nashville, Tennessee, nearly all of sixty years, and reside there now; I was General Book-

5 keeper, acting also for several years as Assistant Cashier of the Bank of Tennessee, beginning in 1849, and continuing until 1853, when I resigned, and was afterwards (I think in 1858) elected again to the same position in the bank, and held the position until the bank was taken possession of by the Government (in April or May, 1865), except for the latter part of 1853 and the years 1854-5-6 and 7, and the early part of 1858 I held that position in the bank; the Bank of Tennessee was the fiscal
6 agent of the State of Tennessee from the passage of the General Internal Improvement Act, in 1851-2, of the General Assembly of the State of Tennessee; the funds of the State were deposited in the Bank of Tennessee and its branches, to the credit of the Treasurer of the State; the State had no other treasury to my knowledge; I do not think that the State Treasurer or other State officials had any *proper safe* or other means provided for the safe keeping of moneys of the State; I do not know of
7 the Treasurer of the State keeping funds in any other bank except the Bank of Tennessee, and branches of the same; it was the duty of tax collectors or any other persons having money, the revenue of the State, to pay the same to the Treasurer of the State, or into the Bank of Tennessee and branches designated by the State Treasurer, and to his credit; I know this fact as to the Bank of Tennessee and its branches, I cannot remember distinctly, after so
8 many years, but think where there was no branch of the Bank of Tennessee, the Treasurer might have directed tax collectors to pay into other banks most convenient to the official thus paying moneys; when this was done, I think the Treasurer generally, if not always, withdrew that deposit by depositing his checks or drafts on such outside banks with the Bank of Tennessee at Nashville, and the bank

would collect and credit the Treasurer of the State 9
with the amount so collected. All disbursements from the State Treasury were made as follows: The Comptroller of the State would issue his payable warrant on the Treasurer of the State, the Treasurer would then issue his check on the Bank of Tennessee, which bank kept an account with him, crediting him with all moneys received, and charging him with all moneys paid out on his check. As to the payment of interest of the railroad companies,
under the Internal Improvement Act of the State 10
of Tennessee, 1851-2, all railroad companies were required to pay the interest on the amount of bonds issued to them, into the Bank of Tennessee, fifteen days before the coupons of the State for interest, attached to the bonds, and due semi-annually, fell due. The Bank of Tennessee was notified by the State officials of the amount of interest due by each railroad Company, so that when the companies came to settle their interest, the bank officials would know
what amount to receive from each railroad company. 11
The interest payments received semi-annually by the Bank of Tennessee, from the several railroad companies during my official connection with the bank, were placed to the credit of an account called "Railroad Companies for Interest," and the amount was afterwards charged off and went to the credit of the Treasurer of the State, subject to his checks, like all other moneys of the State, from whatever source derived; I have heretofore examined the
books of the Bank of Tennessee, and find that the 12
interest so paid in by the railroad companies was sometimes during the term of office of another general bookkeeper of the Bank of Tennessee (Mr. Geo. W. Seay) serving as such when I was not employed at the bank, placed to credit of the railroad company paying, but no account was kept, nor attempted to be kept with or in respect of the holders of the

13 coupons of the State bonds issued to the respective
railroad companies paying their interest to the State
semi-annually, and no attemptwas ever made to my
knowledge,and we had no data or information which
would enable the bank to apply the interest so paid
by the respective companies to the particular
coupons of the bonds issued to the respective Companies
making the payments. Two accounts of the
East Tennessee and Virginia Railroad Company for
interest are shown me, the accounts are correct, in
14 my handwriting, and I make them part of this
deposition (marked A and B, respectively). There
are receipts and bills rendered by the Bank to said
Railroad Company at their respective dates, during
my connection with the Bank as general bookkeeper.
They are in my handwriting, and show
the interest payments were made as so much interest
owing by said Railroad Company to the State. The
bills were rendered on that basis and receipted for
accordingly. After the respective Railroad Companies
15 on the 15th of each June and December had
so paid the amount of interest so due to the State
of Tennessee by deposit in the Bank of Tennessee,
the Railroad Companies had no further dealing,
control or account of the interest so paid, but left
the State to pay its own interest through the Bank,
as its fiscal agent, to the creditors of the State.
From 1849 up to the commencement of the war the
State of Tennessee invariably paid promptly, as
they fell due, all her obligations, and had ample
16 and readily attainable resources to do so. She
never did, before the war, go to protest upon or
permit to be dishonored or to remain unpaid
at maturity any of her obligations, and no
one thought of or contemplated the possibility of
such a contingency happening so far as I know. The
coupons were payable in the City of New York; the
correspondent of the Bank of Tennessee in that city

was authorized by the bank to pay all coupons of 17
bonds of the State of Tennessee. The Merchants
Bank of New York was that correspondent, and
when they rendered accounts to Bank of Tennessee
would send coupons paid as vouchers of such
payment; the coupons were handed over by the
Bank of Tennessee to the State Treasurer, who
would issue his checks therefor, and his pass-book
with the bank was regularly balanced, all his checks
being handed to him when the pass-book was so
balanced, the checks being cancelled by the bank. 18
The railroad companies were the debtors to the
State for State bonds loaned them, and were re-
quired, as before stated, to pay the interest due by
them fifteen days before the coupons were payable
in New York by the State of Tennessee semi-an-
nually, As I have stated another bookkeeper of
the Bank of Tennessee (Mr. Geo. W. Seay), kept
separate accounts with the railroad companies for
interest paid by them to the State, but this course
of his amounted to the same thing, the accounts 19
were not kept so as to show the particular bonds
issued to any railroad company, or the interest on
any such particular bonds. The officials of the
Bank of Tennessee and the correspondent
Bank at New York did not and could not know the
coupons of bonds issued to any particular railroad
company; the coupons were paid indiscriminately, all
being paid as they were presented, and all being re-
turned to the treasurer of the State as received from
the bank which paid them. The Bank of Tennessee, 20
so far as I know, and I think I would have known
it, never knew the number of the bonds issued to
each particular railroad company; nor did the Bank
of Tennessee in any way act as the agent of any of
the railroad companies in paying interest for them,
on bonds issued to them, but the bank simply re-
ceived the amount of interest from the railroads as

21 provided by law, as before stated, fifteen days before
the interest coupons fell due from the State. I
know of no account kept by the Bank of Tennessee
with the railroad companies except as before
stated, and the bank could only officially know what
amount of interest was due from any of the railroad
companies by the information furnished by the
State officials. The interest payments received by
the bank from the various railroad companies were
placed to the credit of an account called "Railroad
22 Companies for Interest," or to the credit of the
company paying, simply as a matter of convenient
reference; it amounted to the same, however, as
if directly carried to the credit of the State
Treasurer, as all of these accounts had of
necessity to appear in said Treasurer's account on
the books of the bank of Tennessee when his account
was balanced. The money paid was the
State's money, as the State was liable for the coupons
of all bonds issued by the State, whether to
23 railroad companies or for any other purposes; as I
have already stated, the bank paid as the fiscal
agent of the State, and on its behalf, the interest on
all the State bonds; the amount so paid was charged
to the State (in the Treasurer's account) as so much
paid for the account of the State. The State got
credit on the books of the bank of Tennessee for all
moneys paid into the bank, either by railroad companies
or by other parties, and payments were
made by the bank of Tennessee or by the correspondent
24 of the bank, and all such payments were
charged to the Treasurer of the State, and never
charged to any of the railroad companies.

And further saith not.

H. L. CLAIBORNE.

Subscribed and sworn to
before me, this March
11th, 1880.

L. W. Humes,
Special Examiner.

EXHIBIT "A." 25

To H. L. Claiborne's Deposition.

EAST TENNESSEE & VIRGINIA R. R. Co.
WITH STATE OF TENNESSEE Dr.,

1859.					
June 15—	Interest on State Bonds due Et prol'd.............		48,060		
	CR.,				
June 11,	Currency	$2,452.90			
	Less ¼ of Ex, 6.13..		2,446.77		26
13,	New York exchange		22,645.00		
	Currency $55 less ¼% Ex. $14..........		54.86		
14	New York exchange		14,943.96		
	Currency $3,945 less ¼% Ex.....	9.56	3,935.14		
15	New York exchange		4031.00		
	Specie for Balance...		3.27		
			——	48060.00	

H. L. CLAIBORNE. 27

Nashville, June 15, 1857.
G. B. K. Bank of Tennessee.

Endorsed.
"Bank of Tennessee Nashville,"
"$48,060."

(Other part of Exhibit "A." on next page.)
L. W. H.
Sp'l Ex'r.

28

29 **BANK OF TENNESSEE.**

NASHVILLE, July 7th, 1859.

SAM'L B. CUNNINGHAM, ESQ., Prest.,
Jonesborough, T.,

Dear Sir :—I have yours of the 4th inst., is received. Below I give a full statement of the settlement E. T. & Va. R. R. interest, which you will find to be correct.

30	June 11,	Bank notes per express.............		$2,452 90
	" 13,	"	$55.00	
	"	958 Phenix bank, N. Y.	12,645.00	
		959 " "	10,000.00	
				22,700.00
	" 14,	881 Bank of Republic, N. Y.............	14,443.96	
	"	6,330 Merchant's bank N. Y. N. Y. ck....	500	
	"	McMahanlas to Bank		
31		of T.............	2,500	
	"	Bank Notes..........	1,445	
				18,888.96
	" 15,	New York Exchange of Porterfield.....		4,031.00
				48,072.86
	You owed interest.............			48,060.00
	Balance Exchange on Currency			
32	paid by you.................			12.86

So you see the bank was correct in the settlement.
Very Respectfully yours,
H. L. CLAIBORNE,
for Cashier.

Endorsed :

"Bank of Tenn., Nashville."
"For Interest July 1, 1859."
"Entered June 30, 1859."

EXHIBIT "B." 33

"To H. L. Claiborne's Deposition."

THE EAST TENNESSEE & VIRGINIA R. R. CO.,
TO STATE OF TENNESSEE, DR.

Interest due 1st July, on 1,602 State Bonds	$48,060.00
¼ o/o Exchange on Currency	16.80
	$48,076.80

34

CREDITS:

American Exchange Bank	$530.95
Bank of the Republic	6,000.00
Phenix Bank	25,000.00
Bank of New York	10,000.00
Bill on N. Y,, $5,000 less discount $75	4,925.00
Leaving for balance	1,620.85
	$48,076.80

35

Nashville, 15th June, 1860.
H. L. CLAIBORNE, G. B. K.,
Bank of Tennessee.

Endorsed:

"Rec't."
"Bank of Tenn."
"for Int. July 1, 1865."

36

Deposition of G. W. Seay. 1

UNITED STATES CIRCUIT COURT,

DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the RAILROAD COMPANY, 2

versus

THE RAILROAD COMPANY.

Deposition of G. W. SEAY, witness for defendants, taken in Nashville, Tennessee, March 11th, 1880, before L. W. HUMES, Special Examiner, duly appointed under an order of the United States Circuit Court, Western District of Tennessee. 3

Taken pursuant to agreement.

Present—W. Y. C. HUMES, *for defendants.*

G. W. SEAY, being first duly sworn, deposed as follows: 4

My name is George Whorton Seay; I was fifty-two (52) years old my last birth day; I have lived in and near Nashville since May, 1866—from boy-

5 hood; I lived in Nashville with but one or two short intervals up to October, 1858, at which time I moved to Columbia, Tennessee; from January, 1854, as I now recollect, up to October, 1858, I was general bookkeeper of the Bank of Tennessee, at Nashville, succeeding H. L. Claiborne in 1854, and succeeded by him in October, 1858; during that period the Bank of Tennessee was the sole fiscal agent of the State of Tennessee, and all the funds of the State were or ought to have been deposited
6 in said Bank. If the State officials had any safe or other means to keep their money secure; it was, I presume, merely a temporary place preparatory to making regular deposits in the bank; if a tax collector had money deposited in a branch bank, I suppose he would have deposited it in such branch bank temporarily at his own credit, awaiting the time when he would pay it over to the State Treasurer, accompanied by a receiving warrant from the Comptroller, but of this I have no
7 knowledge as payments were made to the Treasurer on a receiving warrant from the Comptroller, the treasurer taking up the Comptroller's paying warrant and issuing therefor to the parties presenting same, his checks on the Bank of Tennessee; I have examined some (possibly all) the accounts kept with the railroad companies of the State which had received the State bonds; I find that I adopted a different plan, but with the same view as my predecessor. He kept his receipts from railroads as
8 "Railroad Companies for Interest on State Bonds," and I kept the accounts with the different railroads separately. My reason for this change was on account of the frequent partial payments made by those companies, and the difficulty in stating the unpaid balances due from those companies if the account had been kept up as it had been commenced by my predecessor under the heading of "Railroad

Companies for Interest," &c. The moneys thus 9
paid, whether to credit of the account headed "Railroad
Companies for Interest," &c., or to credit of
separate railroads, as kept by myself, was merely
kept temporarily so until the amounts due by each
railroad had been fully provided, and then passed
to credit of the Treasurer of Tennessee. The keeping
of the accounts by myself separately for the
different railroads was not provided for the payment
of any specific bonds, but for the payment of
so much interest due the State by the railroad companies. 10
The Bank of Tennessee did not keep any
account of the separate and particular bonds issued
any railroad company, and as an officer of the bank
I did not know and was never furnished with any
list of such loans made by the State to the railroad
companies, but simply furnished with a list of the
several amounts of interest due the State by the
companies who had received the loan of bonds from
the State. The bank acted in no other way towards
such railroad companies than as the depositary of 11
such companies for credit of the Treasurer of the
State in the manner before stated. As fiscal agent
of the State the Bank of Tennessee paid, or caused
to be paid by its correspondent in New York, all
the coupons from the State bonds, for whatever
purpose issued, and never charged the payment of
a single coupon to any railroad whatever. The interest
so paid was charged to the Treasurer of the
State directly by the Bank of Tennessee.

And further saith not. 12

G. W. SEAY.

Subscribed and sworn to
before me, this March
11th, 1880.

L. W. HUMES,
Special Examiner.

Deposition of Wm. Morrow. 1

UNITED STATES CIRCUIT COURT,

DISTRICT OF TENNESSEE.

Calvin Amory Stevens *et al.*, on
behalf of the holders of Internal
Improvement Bonds of Tennessee 2
issued to the
Railroad Company,

versus

The
Railroad Company *et al.*

Deposition of Wm. Morrow, witness for defendants, taken in Nashville, Tennessee, March 11th, 1880, before L. W. Humes, Special Examiner, duly appointed under an order of the United States Circuit—Western District of Tennessee. 3

Taken pursuant to agreement.

Present—W. Y. C. Humes, *for Defendants.* 4

Wm. Morrow, being first duly sworn, deposed as follows:

1 Q. State your name, age and place of residence? How long and during what period of time

Deposition of Wm. Morrow. 1

UNITED STATES CIRCUIT COURT,

DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the RAILROAD COMPANY, 2

versus

THE RAILROAD COMPANY *et al.*

Deposition of WM. MORROW, witness for defendants, taken in Nashville, Tennessee, March 11th, 1880, before L. W. HUMES, Special Examiner, duly appointed under an order of the United States Circuit—Western District of Tennessee. 3

Taken pursuant to agreement.

Present—W. Y. C. HUMES, *for Defendants.* 4

WM. MORROW, being first duly sworn, deposed as follows:

1 Q. State your name, age and place of residence? How long and during what period of time

5 were you the Treasurer of the State of Tennessee?
A witness in this case, John T. Terry of the firm of
E. D. Morgan & Co., of New York City, in answer
to interrogatory 29th on the 8th page of his printed
deposition asking him: "When his firm of E. D.
Morgan & Co. and himself became the owners of
Tennessee bonds, was he not aware that they were
liens upon railroads in this State?" says: "We
"were so informed by the Treasurer of the State
"of Tennessee in our office"; and in answer to the
6 39th cross-interrogatory on page 10, asking him,
"who was the Tennessee treasurer with whom you
"(he) had the conversation in his office, and when
"was it?" Answered: "My impression is his
"name was Morrow, and he had some Tennessee
"bonds for sale; this was previous to 1873, to
"the best of my recollection; it was since the war."
Now please state whether you had the conversation
with John T. Terry he has related, or told him the
State bonds issued to railroads were first mortgage
7 liens upon the railroads in this State? Did you
have any Tennessee bonds for sale in 1873, or prior
or subsequent to that date, or ever inform Terry so?
Were you ever in the office of E. D. Morgan & Co.,
of New York? if yea, at what date were you in
their office? Were you ever in their office or have
a conversation with any member of that firm before
that date? Were you in New York City in 1873; at
all?

A. Name, William Morrow; age, forty-one, residence,
8 Nashville, Tennessee; I was State Treasurer
of Tennessee from June, 1st, 1870, up to February
5th, 1877; it was during the month of
November or December 1874, in December I think
that I first met Gov. E. D. Morgan of firm of Morgan
& Co., and the place I think was in the Fourth
National Bank of New York; I state that according
to the best of my recollection; I never met Mr.

Terry, and was not at the banking house of E. D. 9
Morgan & Co.; that I never told him State bonds were a lien, but I state without doubt I never informed him I had Tennessee bonds for sale, for the reason I never bought or sold directly or indirectly any Tennessee bonds, save a few bought as my part of the purchase money of the Knoxville & Charleston Rail Road, and paid to the State of Tennessee; there must be some confusion of persons and dates in the mind of Mr. Terry; at the time above referred
to, the comptroller and myself were in New York, 10
and the former was negotiating loan (which failed) to pay the January, 1875, interest on State debt; then it was I first met Governor Morgan and was in banking house of Drexel, Morgan & Co., but certainly no such statements were made by me to Mr. Terry or to anyone else as he imputes to me in his deposition; I might have been in New York in 1873, but my acquaintance with the banking firm of E. D. Morgan & Co. and Drexel, Morgan & Co. does not
antedate November or December, 1874. 11

2 Q. Please state the reputation and character of Robert J. McKinney, Archibald Wright, and Francis B. Fogg, the commissioners appointed by the Legislature of Tennessee to conduct the proceedings on behalf of the State against delinquent and insolvent railroad companies, if you are acquainted with their characters for integrity and intelligence. State also their ages, circumstances, and independency of and want of connection with railroads.

A. I have known personally the three gentlemen 12
named in above interrogatory for years, and I am at a loss for words to express the high esteem in which they have been for years and still are deservedly held by the entire people of Tennessee, and of their entire fitness to conduct properly the work assigned them of protecting and disposing of the State's interest in railroads; they are or were all

13 beyond the age of sixty-five; ages not exactly known to me; of the highest integrity and intelligence; two had prior to the war occupied places on the Supreme Bench with distinguished credit, and the other for years the leading lawyer of Middle Tennessee; all in independent circumstances financially, and regarded this important trust committed to them as perhaps the closing public service of their lives; it was in my opinion discharged with singular fidelity and wisdom; and further saith not.

14 WILLIAM MORROW.

Subscribed and sworn to before me, March 11, 1880.

L. W. HUMES,
Special Examiner.

15

16

Deposition of Samuel Tate.

1

CALVIN AMORY STEVENS
vs.
THE MEMPHIS AND CHARLESTON
RAILROAD COMPANY.

Deposition of Samuel Tate, taken at Knoxville, Tenn., Sept. 25th, 1879: 2

I reside in the City of Little Rock, Arkansas, and am sixty-two years old. I was born in Tennessee, and was a citizen of Tennessee for about sixty years. I have no connection with or interest in the Memphis and Charleston Railroad Company, or any other railroad in the State, nor in their bonds or securities, nor in the State bonds.

I was connected with the Memphis and Charleston Railroad from the year 1852, till the year 1868, 3 the first two and a half years as Secretary and Treaurer, and balance of the time as President; in all something over sixteen years. I was connected with the road from the time of its first active operations, in the collection of its stock and in the commencement of its grading and construction.

I was during the whole of my official connection with the Board almost the exclusive active financial and constructing agent for the Western Division of the road, that being the only portion which lies in 4 Tennessee.

The purpose, as I understood it at the time, of the railroad men of Tennessee, in shaping the

5 passage of the General Internal Improvement Act
of 1851-2 was to get it in the most available shape,
to iron and equip their road ; and the State's credit
was much better than any outside company's ; even
with the State's endorsement they preferred and so
shaped the legislation as to get the straight State
Bonds issued in order to get more money for it ; besides
this they preferred making their liabilities and
dealings with the State alone, in paying their interest
and sinking funds, having their entire dealings
6 with the State of Tennessee ; and supposed
they had accomplished this in the passage of the
Act of 1851-2.

Experience had shown that the bonds of companies endorsed by the State never obtained as high a price in the market as straight State Bonds.

The first bonds received by the Memphis and Charleston Railroad, under the Act of 1851-2, were sold as straight Tennessee State Bonds, and brought 108 cents in the market.

7 A very large proportion of the bonds received by the road under said Act and amendment were received and sold by me as the Financial Agent of the company, and all of them during my connection with the road in full consultation with me.

In the negotiation of these bonds with capitalists
in the City of Charleston, New York and elsewhere,
I had many consultations and conversations with
them in relation to the character of these bonds, in
all of which I represented them as straight State
8 Bonds, and that the law made the State alone liable
for them to the holder, which position was accepted
and acquiesced in by every man whom I ever sold
a bond to.

In keeping my accounts with the State of Tennessee in relation to the bonds issued to the Company by the State, I credited the State with the amounts of the bonds without regard to preserving

on the books the numbers of said bonds, as I re- 9
garded our liability as alone to the State for the amounts of the bonds, without regard to any specific bonds. When any amount was paid to the State on interest and sinking fund it was charged to the State as that much money, without regard to its being paid on any particular bond.

I did superintend the payment of the semi-annual interest to the State on the amount of bonds issued to said company. It was directed to be paid or
paid so as to be applied to the coupons attached to 10
the identical bonds issued to our company, but it was simply directed to be paid, and was paid, as so much interest, due from our company to the State on the amount of bonds issued to us, believing and construing our obligation under the law to be to the State alone.

All the bonds issued to our company were payable to blank or bearer, and were passed to the purchasers of them without any endorsement or nota-
tion upon them to identify them as the bonds is- 11
sued to our company by the State, passing them to the purchaser as I would a bank note, believing that our company had no more liability upon them than it would have upon a bank note passed to such purchaser; the similarity between said bonds and a bank note consists in this, that they were both payable to blank or bearer, passed by delivery and were both numbered.

The system of numbering bonds and bank notes
is adopted by the State or institution issuing them 12
for the purpose of identity, and for detecting spurious and over-issues.

The company ceased to pay interest due the State during most of the war, and for more than two years after the close of the war—during which time no coupon was ever presented to or payment demanded from the company by any holder of any

13 such past due coupon, but payment was demanded by the State of Tennessee for all the past interest due the State.

The Memphis and Charleston Railroad received under the act of 1852, and amendments, $1,100,000, and made an additional indebtedness to the State of about $400,000 for accrued interest during the war.

Under an act of 1875 or '6, an additional loan was made of about $300,000, making a total indebted-
14 ness of about $1,800,000.

Every bond received by our company from the State that was negotiated were sold and the proceeds used in strict conformity with the law, during my official connection with the road.

As to the act of 10th of March, 1869, I know nothing, but looking as I did, with many other railroad men of Tennessee, to the very large indebtedness of the State, near forty-three millions of dollars, and its depreciated credit, then down to 41
15 cents, and the large indebtedness of the railroads to the State, and their dilapidated condition after the war, we were anxious to devise some plan to relieve the State and the railroad companies, to prevent the roads going into the hands of political receivers, and being run down and destroyed without benefit either to the companies or the State, under the large sinking fund soon to be collected, with their other pressing liabilities, we devised the plan contained in the law of 20th July, 1870, as the only one
16 to avoid bankruptcy of both railroads and State.

The wisdom of which law was proven by reducing the State's debt over $20,000,000, and to an amount capable of being easily handled.

The demand for State bonds produced by this law was such as to increase their value from 41 to over 65 cents within forty-five days from its passage,

thereby adding over nine millions of dollars to the 17
value of State bonds then out.

As to the amount of capital furnished by the stockholders of this road for its construction and equipment, upon which the State's credit was based, the original stockholders paid in as stock at par about $2,500,000. They sold their own first mortgage bonds on their Alabama & Miss. Division, $1,600,000, at 87c., $1,392,000. They used in its construction and equipment of their net
earnings during its construction for construction 18
and equipment purposes about $2,800,000, making a total of $6,692,000, upon which their orginal State loan was about $1,100,000. Loan to fund interest about $400,000. Additional loan after the war about $300,000, making a total Tennessee Loan of about $1,800,000.

After the war the road was found to be one of the worst injured roads in the South, having been at different times lost and won, and in the possession
of both armies alternately, and each surrender of it 19
was preceded by its destruction by the retreating army as far as it was possible, and at the close of the war not a permanent bridge or trestle was left on it, and but few buildings, and for 136 miles the ties all burnt or destroyed, and most of the rails burned and twisted around trees and telegraph poles, so as to require almost a new construction and new equipment; for this purpose the company spent over two and a quarter millions of dollars of
the stockholders' means and credit, putting the road 20
and its equipment in fine order, and purchaseing of the Government of the United States over $600,000 worth of equipments and material, for which they paid the Government the *cash*.

My impression is that all the bonds issued to our company before the war were sold promptly, for the reason that they brought a good price, but the bonds issued after the war were not sold promptly, but were retained by the company, and used as collaterals for loans, because it was thought that the company could better undertake to pay the interest on money borrowed than to stand the discount on the bonds, which would have been necessary in selling them, and they were so retained by the company as long as I was officially connected with the road, as I recollect.

In regard to any means used to procure legislation in Tennessee for the benefit of the railroads, I can say that I never made an improper proposal to any member of any legislative body whatever, nor do I know any one else doing so.

I know of no holder of any Tennessee State Bond issued under the General Internal Improvement Act of Tennessee, preserving any evidence of the particular road to which such bond was issued; but I do know the fact there was no difference in the price of said bonds in the open market in New York or elsewhere, whether they were issued to solvent or insolvent roads. And further this deponent sayeth not.

SAM TATE.

McMinnville & Manchester R. R. Receipts to the State of Tennessee for Bonds.

UNITED STATES CIRCUIT COURT, 1
SIXTH JUDICIAL CIRCUIT,
MIDDLE DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the McMINNVILLE & MANCHESTER RAILROAD COMPANY, 2

versus

THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY *et al.*

It is hereby stipulated and agreed between the parties to the above-entitled suit, that the certified copies of the receipts given by the railroads of Tennessee to the State for bonds issued to them 3 respectively, and which have been produced by the complainants herein, shall be marked by the Special Examiner as Complainants' Exhibits and filed by him separately, and that the same may be read in evidence by the Complainants subject to all legal objections, without attaching the same to the deposition of any one witness.

New York, November 12, 1879.

E. L. ANDREWS,
Sol'r and of Counsel for Complainants. 4
W. Y. C. HUMES,
Sol'r and of Counsel for Respondents.

5 COMPLAINANT'S EXHIBIT A.

W. H. D. L., Spl. Exr.

MCMINNVILLE & MANCHESTER R. R. CO.

$300,000.

Received of Andrew Johnson, Governor of the State of Tennessee, three hundred coupon bonds of said State, for $1000 each, numbered from No. 2553 to No. 2852, including both of these numbers,
6 drawing 6 per cent. per annum interest, dated the 1st of January, 1855, and falling due on the 1st of January, 1892, being issued under the provisions of the general internal improvement laws of said State, on the first section of thirty miles on the McMinnville and Manchester R. R. Co., first coupon on said bonds falling due 1st January, 1856.

July 20, 1855.

P. H. MARBURY,
Pres't McMinnville & Manchester R. R. Co.

7

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of the receipt of P. H. Marbury, President McMinnville and Manchester Railroad Company, for 300 Tennessee State bonds, from No. 2553 to 2852, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature;
8 and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department, in
[SEAL.] the City of Nashville, this 18th day of August, A. D. 1879.

CHAS. N. GIBBS.
Secretary of State.

STATE OF TENNESSEE, } 9
Davidson County, }

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 18th day of August, 1879. 10

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that John C. Ferriss, 11 Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court,
[L. S.] at office, this 18th day of August, 1879.

J. R. MCCANN, 12
Clerk.

13 $346,000.

COMPLAINANTS' EXHIBIT B.

W. H. D. L., Spl. Exr.

McMINNVILLE & MANCHESTER R. R.

Act of January 18, 1866.

NASHVILLE, TENN., April 6th, 1866.

No. 316 to 661.

14 Received of W. G. Brownlow, Governor of the State of Tennessee, three hundred and forty-six thousand dollars in the coupon bonds of said State, being three hundred and forty-six bonds of one thousand dollars each, principal and interest payable in New York. The bonds falling due on the 1st day of January, 1892, the first coupon falling due on the 1st day of July, 1866, not lettered, but of the green issue and numbered from 316 to 661 inclusive.

15 Said bonds are issued to the McMinnville and Manchester R. R. Co. under the Act of January 18th, 1866, in payment of that amount of an appropriation of $346,000, allowed by that Act to be used in building the bridges, repairing said road, and putting *them* in running order.

P. H. MARBURY,
Pres. McMinnville & Manchester R. R. Co.

16 I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the forgoing is a copy of a receipt of P. H. Marbury, President of the McMinnville and Manchester Railroad Company, for 346 bonds of the State of Tennessee, from No. 316 to 661 inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature; and by order of the Governor, af-

fixed the great seal of the State of 17
[L. S.] Tennessee, at the Department in
the City of Nashville, this 18th day
of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. }

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify, 18 that Chas. N. Gibbs, whose genuine signature appears to the foregoing Certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of September, 1879.

JNO. C. FERRISS,
County Judge. 19

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing Certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such; and that 20 said attestation is in due form of law.

Witness my hand and seal of said Court,
[L.S.] at office, this 19th day of September 1879.

J. R. McCANN,
Clerk.

21 COMPLAINANTS' EXHIBIT C.

W. H. D. L., Spl. Exr.

McMinnville and Manchester R. R. Co.

$54,000.

No. 3306 to 3359.

Received, Nashville, Tenn., June 26th, 1866, of W. G. Brownlow, Governor of the State of Tennessee, fifty-four of the six per cent. coupon bonds of said State for one thousand dollars each, principal and interest payable in New York, bonds falling 22 due January 1st, 1892, first coupons falling due January 1st, 1867; semi-annual interest. Said bonds are of the Green issue of 1866, not lettered, but numbered from 3306 to 3359, both numbers inclusive. Said bonds are issued to the McMinnville and Manchester Railroad Company, in accordance with an act of the General Assembly, passed May 25, 1866, appropriating $54,000 to aid said McMinnville and Manchester Railroad Company in building its bridges, 23 repairing its road, and putting the same in running order.

P. H. MARBURY,

President McMinnville & Manchester R. R. Co.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of P. H. Marbury, President McMinnville 24 & Manchester R. R. Co., for 54 Tennessee State bonds, from No. 3306 to 3359, both inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and by order of the Governor affixed the Great Seal of the State of Tennessee, at the Department,

[L. S.]

in the City of Nashville, this 18th 25
day of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County,

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the 26 time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such ; and that said attestation is in due form of of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, 27
Davidson County.

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such ; and that said attestation is in due form of law.

28
Witness my hand and seal of this Court,
[L. S.] at office, this 19th day of Sept.,
1879.

J. R. McCANN,
Clerk.

Nashville & North Western R. R. Receipts to the State of Tennessee for Bonds.

UNITED STATES CIRCUIT COURT, 1

SIXTH JUDICIAL CIRCUIT,

Middle District of Tennessee.

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the NASHVILLE & NORTH WESTERN RAILROAD COMPANY,

versus 2

The NASHVILLE CHATTANOOGA AND ST. LOUIS RAILWAY *et al.*

It is hereby stipulated and agreed between the parties to the above-entitled suit, that the certified copies of the receipts given by the railroads of Tennessee to the State for bonds issued to them respectively, and which have been produced by the 3
complainants herein, shall be marked by the Special Examiner as Complainants' Exhibits, and filed by him separately, and that the same may be read in evidence by the complainants, subject to all legal objection, without attaching the same to the deposition of any one witness.

NEW YORK, November 12, 1879.

E. L. ANDREWS,
Solr. and of Counsel for Complainants,
W. Y. C. HUMES, 4
Solr. and of Counsel for Respondents.

5 COMPLAINANTS' EXHIBIT A.

W. H. D. L., Sp'l Ex'r.

NASHVILLE AND NORTHWESTERN RAILROAD CO.

Received, Nashville, August 11th, 1860, of ISHAM G. HARRIS, Governor of the State of Tennessee, one hundred and thirty coupon bonds of the State of Tennessee, for one thousand dollars each, principal and interest payable in the City of New York. Bonds falling due the 1st day of January, 6 1898; first coupons falling due the first day of January 1861.

Said bonds are issued to the Nashville and Northwestern Railroad Co., on their 3d application for iron aid, being on a 3d section of 13 miles on the eastern division; beginning 10 miles west of Nashville. Said bonds are numbered from No. 67 to 196, both inclusive, and both bond and coupon lettered with the letter C.

7 JNO. O. EWING,
Agent of N. & N. W. R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of Jno. O. Ewing, Agent N. & N. W. R. R. Co. for 130 bonds of the State of Tennessee, letter C., from No. 67 to 196 inclusive, the original of which is now of record in my office.

8 In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department, in the City of Nashville, this 18th day of August, A. D. 1879.

[SEAL.]

CHAS. N. GIBBS.
Secretary of State.

State of Tennessee, }
Davidson County. } 9

I, **John C. Ferriss**, sole Presiding Judge of the County Court of said county, do hereby certify, that Chas N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

10

Given under my hand, at office, in Nashville, on this 18th day of August, 1879.

JNO. C. FERRISS,
County Judge.

State of Tennessee, }
Davidson County. }

I, **J. R. McCann**, Clerk of the County Court of said county, do hereby certify that John C. Ferriss, 11
Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court,
[L.S.] at office, this 18th day of August,
1879.

12

J. R. McCANN,
Clerk.

5 ## COMPLAINANTS' EXHIBIT A.

W. H. D. L., Sp'l Ex'r.

NASHVILLE AND NORTHWESTERN RAILROAD CO.

Received, Nashville, August 11th, 1860, of ISHAM G. HARRIS, Governor of the State of Tennessee, one hundred and thirty coupon bonds of the State of Tennessee, for one thousand dollars each, principal and interest payable in the City of New York. Bonds falling due the 1st day of January, 6 1898; first coupons falling due the first day of January 1861.

Said bonds are issued to the Nashville and Northwestern Railroad Co., on their 3d application for iron aid, being on a 3d section of 13 miles on the eastern division; beginning 10 miles west of Nashville. Said bonds are numbered from No. 67 to 196, both inclusive, and both bond and coupon lettered with the letter C.

7 JNO. O. EWING,
Agent of N. & N. W. R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of Jno. O. Ewing, Agent N. & N. W. R. R. Co. for 130 bonds of the State of Tennessee, letter C., from No. 67 to 196 inclusive, the original of which is now of record in my office.

8 In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department, in the City of Nashville, this 18th day of August, A. D. 1879.

[SEAL.]

CHAS. N. GIBBS.
Secretary of State.

STATE OF TENNESSEE, } 9
Davidson County. }

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said county, do hereby certify, that Chas N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

10
Given under my hand, at office, in Nashville, on this 18th day of August, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of
said county, do hereby certify that John C. Ferriss, 11
Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

[L.S.] Witness my hand and seal of said Court, at office, this 18th day of August, 1879. 12

J. R. McCANN,
Clerk.

13 COMPLAINANTS' EXHIBIT B.

W. H. D. L. Spl., Ex.

50. **Nashville & Northwestern Railroad Co.**

Received, Nashville, June 13th, 1860, of Isham G. Harris, Governor of the State of Tennessee, fifty coupon bonds of the State of Tennessee, for one thousand dollars each, principal and interest payable in New York; first bond falling due 1st day of 14 January, 1898; first coupon falling due 1st day of July, 1860.

Said bonds are issued to said Company in full of appropriation in aid of construction of bridges over Harpith and Turnbull.

Said bonds are numbered from 11,395 to 11,444, both numbers included.

V. K. STEVENSON,
Agent for N. & N. W. R. R. Co.

15 I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of V. K. Stevenson, agent for N. & N. W. R. R. Co., for 50 bonds of the State of Tennessee, from No. 11,395 to 11,444 inclusive, the original of which is now of record in my office.

In testimony whereof I have hereunto subscribed my official signature, and by order of the Governor affixed the Great Seal o the State of Tennessee, at the Department, in the City of Nashville, this 18th day of August, A. D. 1879.

16 [L.S.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County. 17

I, **JOHN C. FERRISS**, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office in Nashville, on this 18th day of August, 1879. 18

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I, **J. R. McCANN**, Clerk of the County Court of said county, do hereby certify that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such; and that said attestation is in due form of law. 19

[L. S.] Witness my hand and seal of said Court, at office, this 18th day of August, 1879.

J. R. McCANN, 20
Clerk.

21 COMPLAINANTS' EXHIBIT C.

W. H. D. L., Sp'l Exr.

NASHVILLE AND NORTH-WESTERN RAILROAD COMPANY.

Received, Nashville, June 29th, 1860, of ISHAM G. HARRIS, Governor of the State of Tennessee, one hundred coupon bonds of said State, for one thousand dollars each, principal and interest payable in New York; bonds falling due on the 1st day of
22 January, 1898; first coupon falling due on the 1st day of January, 1861.

Said bonds are issued to the Nashville and North-Western Railroad Company, upon their second application for iron aid, it being the first application upon a ten-mile section of the Eastern Division of said road; said section beginning at Nashville and ending ten miles west of said city. Said bonds are numbered from No. 11,445 to No. 11,544, both numbers included.

23 JNO. O. EWING,
Agent of N. & N.-W. R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of Jon O. Ewing, Agent of N. & N.-W. R. R. Co., 100 bonds of the State of Tennessee, from No. 11,445 to No. 11,544, both numbers included, the original of which is now of record in my office.

24 In testimony whereof, I have hereunto subscribed my official signature; and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 18th day of August, A. D. 1879.

[L.S.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, } 25
Davidson County, }

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 18th day of August, 1879. 26

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that John C. Ferriss, 27 Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court, at office, this 18th day of August, 1879.
[L. S.]

J. R. McCANN, 28
Clerk.

29 COMPLAINANTS' EXHIBIT D.

W. H. D. L., Spl. Exr.

NASHVILLE & N.-W. R. R. ACT OF JAN. 18, 1866.

$275,000.

Nos. 41 to 315.

NASHVILLE, TENN., April 4th, 1866.

Received of W. G. BROWNLOW, Governor of the 30 State of Tennessee, two hundred and seventy-five thousand dollars in the coupon bonds of said being two hundred and seventy-five bonds of one thousand dollars each, principal and interest payable in New York, the bonds falling due on the 1st day of Jany., 1892, the first coupons falling due on the first day of July, 1866; not lettered, but of the green issue, and numbered from No. 41 to No. 315, inclusive.

Said bonds are issued to the Nashville & N.-W. 31 R. R. Co. under the Act of Jany. 18th, 1866, in payment of that amount of an appropriation of $400,000 allowed by that act to be used in building the bridges, repairing said road and putting *them* in running order.

M. BURNS,
President of the Nashville &
North-Western R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of 32 Tennessee, do certify that the foregoing is a copy of a receipt of M. Burns, President of the Nashville and North-Western Railroad Company, for two hundred and seventy-five Tennessee State bonds, from No. 41 to 315, inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature; and by order of the Governor, affixed the great seal of the State of Tennessee, at the Department in the City of Nashville, this 18th day of Sept., A. D. 1879. 33

[L. S.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. } 34

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing Certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879. 35

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing Certificate, is now, and was at the time of 36
signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such; and that said attestation is in due form of law.

Witness my hand and seal of said Court, at office, this 19th day of Sept., 1879.

[L.S.]

J. R. McCANN,
Clerk.

37 COMPLAINANTS' EXHIBIT E.

W. H. D. L., Spl. Exr.

NASHVILLE AND NORTH WESTERN RAILROAD COMPANY.

Act of December 7th, 1867.

No. 101 to 200.

NASHVILLE, TENNESSEE December 27, 1867.

Received of W. G. Brownlow, Governor of the
38 State of Tennessee, one hundred of the six per cent. coupon bonds of said State for one thousand dollars each, payable in New York on the 1st day of January, 1900, with sixty-four coupons attached, also payable in New York, the first of which fall due July 1st, 1868.

Said bonds are of the Green issue of the series denoted by the letter B, and are issued to the Receiver of the Nashville and North Western Railroad Company under the Act passed December 7th, 1867,
39 appropriating ($350,000) to said Company; said bonds are numbered from No. 101 to 200, both numbers inclusive.

WM. P. INNIS,
Receiver N. & N. W. R. R.

Delivered to Gen. Innis, Receiver, &c., under a written order read to me by the Comptroller in presence of J. G. Ogden and W. P. Jones and Jesse French.

40 A. J. FLETCHER,
Sec. State.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of Wm. P. Innis, Receiver N. & N. W. R. R., for 100 Tennessee State bonds, from No. 101 to 200, both inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto 41
subscribed my official signature;
and, by order of the Governor,
affixed the Great Seal of the State
[SEAL.] of Tennessee, at the Department
in the City of Nashville, this 18th
day of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County. } 42

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said county, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nash-
ville, on this 19th day of Sept., 43
1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of
said county, do hereby certify that John C. Ferriss,
Esq., whose genuine signature appears to the fore-
going certificate, is now, and was at the time of
signing the same, sole Presiding Judge of the 44
County Court in and for said county, duly elected
and commissioned and qualified as such; and that
said attestation is in due form of law.

Witness my hand and seal of said Court,
[L.S.] at office, this 19th day of Sept.,
1879,

J. R. MCCANN,
Clerk.

45 COMPLAINANTS' EXHIBIT F.

W. H. D. L., Spl. Exr.

NASHVILLE & NORTH WESTERN RAILROAD CO.

$225,000.

Received, Nashville, Tennessee, May 12th, 1866, of W. G. Brownlow, Governor of the State of Tennessee, two hundred and twenty-five of the six per 46 cent. coupon bonds of the said State for one thousand dollars each, principal and interest payable in New York, the bonds falling due on the 1st day of January, 1892, the first coupons falling due the 1st July, 1866, semi-annual interest.

Said bonds are of the Green issue of 1866, not lettered but numbered from 2,246 to 2,470 inclusive.

Said bonds are issued to the Nashville and North Western Railroad Company upon their sixth application 47 for iron and upon a section of fourteen and one-half miles upon the Eastern Division of said road, and upon a section of eight miles upon the Western Division of said road under the provisions of an Act of the General Assembly of Tennessee, passed February, 1852.

M. BURNS,
Prest. N. & N. W. R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of 48 Tennessee, do certify that the foregoing is a copy of a receipt of M. Burns, Prest. N. & N. W. Railroad Co. for 225 Tennessee State bonds, from No. 2,246 to 2,470 inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto
subscribed my official signature;

and, by order of the Governor, 49
[L.S.] affixed the Great Seal of the State
of Tennessee, at the Department, in
the City of Nashville, this 18th
day of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County, }

I, JOHN C. FERRISS, sole presiding Judge of the 50
County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept.,
1879. 51

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the 52
County Court in and for said County, duly elected and commissioned and qualified as such; and that said attestation is in due form of law.

Witness my hand and seal of said Court,
[SEAL.] at office, this 19th day of Sept.,
1879.

J. R. MCCANN,
Clerk.

53 **COMPLAINANT'S EXHIBIT G.**

W. H. D. L., Spl. Exr.

NASHVILLE & N. W. R. R. Co.

3161 to 3368 omitting No. 3254.

Received Nashville, Tenn., July 27th, 1868, of W. G. Brownlow, Governor of the State of Tennessee, two hundred and seven of the coupon bonds of said State for one thousand dollars each, the principal and interest payable in New York, the bonds on the 54 1st day of January, 1900, and the first coupons January 1st, 1869. Numbered from 3161 to 3368, omitting No. 3254, not signed at date of this receipt.

Said bonds are issued to the Nashville and N. W. R. R. Co. in full of the appropriation of three hundred and fifty thousand dollars in bonds made to said company, under the act of Dec. 7th, 1867, but do not include the appropriation of $200,000 to said Company by said act for the extension of said 55 road from Huntingdon to Jackson.

D. B. CLIFFE,

Receiver of said Railroad,
and Agent of the Company.

I, G. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of D. B. Cliffe, Receiver N. & N. W. RR. and Agent for the Co., for 207 Tennessee State bonds, from No. 3161 to 3368 omitting No. 3254, rest in- 56 clusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State of
[L.S.] Tennessee, at the Department in

the City of Nashville, this 18th day of September, A. D. 1879. 57

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE }
Davidson County. }

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was 58
at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879.

JNO. C. FERRISS,
County Judge.

59

STATE OF TENNESSEE }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such; and that said attestation is in due form of law. 60

[L.S.] Witness my hand and seal of said Court, at office, this 19th day of Sept., 1879.

J. R. MCCANN,
Clerk.

61 COMPLAINANTS' EXHIBIT H.

W. H. D. L., Spl. Exr.

NASHVILLE AND NORTHWESTERN RAILROAD CO.—
(Huntingdon Branch.)

$100,000.

No. 3369 to 3467 and 3254.

Received of W. G. Brownlow, Governor of the State of Tennessee, one hundred of the six per cent. coupon bonds of said State for one thousand dollars
62 each, with coupons attached, principal and interest payable in New York, the bonds on the 1st day of January, 1900, and the 1st coupons on the 1st day of January, 1869.

Said bonds are numbered from No. 3369 to 3467, both numbers inclusive, and also No. 3254 omitted in the preceding page.

Said bonds are issued to the Nashville and Northwestern Railroad Company, under the Act of December 7, 1867, in part of the appropriation of bonds
63 to said company, for the extension of said road from Huntingdon to Jackson.

D. B. CLIFFE,
Receiver N. & N. W. R. R. Co.
Agent of N. & N. W. R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of D. B. Cliffe, Receiver of N. & N. W. Railroad, Md., and agents of said Company, for 100
64 bonds of the State of Tennessee, from No. 3369 to 3467, both inclusive, also 3254, the original of which is now of record in my office.

In testimony whereof I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State
[L.S.] of Tennessee, at the Department,

in the city of Nashville, this 18th 65
day of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County.

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said county, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was 66 at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879.

JNO. C. FERRISS,
County Judge. 67

STATE OF TENNESSEE,
Davidson County.

I, J. R. MCCANN, Clerk of the County Court of said county, do hereby certify that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such, and that said attestation is in due form of law. 68

[L.S.] Witness my hand and seal of said Court, at office, this 19th day of Sept., 1879.

J. R. MCCANN,
Clerk.

69 COMPLAINANTS' EXHIBIT I.

W. H. D. L., Spl. Exr.

NASHVILLE AND NORTHWESTERN RAILROAD COMPANY.

$150,000, No. 3,710 to 3,859.

Received Nashville, Tennessee, July 6th, 1866, of W. G. Brownlow, Governor of the State of Tennessee, one hundred and fifty of the six per cent. coupon bonds of said State, for one thousand dollars 70 each, principal and interest payable in New York. Bonds falling due January 1st, 1892. First coupons falling due January 1st, 1867, semi-annual interest. Said bonds are of the Green issue of 1866, not lettered, but numbered from 3,710 to 3,859, both numbers inclusive.

Said bonds are issued to the Nashville and North Western Rail Road Company, in accordance with an Act of the General Assembly of Tennessee, 71 passed May 22d, 1866, appropriating ($200,000) two hundred thousand dollars to the Nashville and North Western Rail Road Company, to aid in building its bridges, and for putting its road in running order.

M. BURNS,

Prest. Nashville & North Western R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of M. Burns, Prest. Nashville 72 and North Western Rail Road Company for 150 Tennessee State bonds from No. 3,710 to 3,859, both inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and by order of the Governor af-

[L. S.] fixed the Great Seal of the State 73
of Tennessee, at the Department,
in the City of Nashville, this 18th
day of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County,

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to 74 the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879.

JNO. C. FERRISS,
County Judge. 75

STATE OF TENNESSEE,
Davidson County.

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such; and that said 76 attestation is in due form of law.

Witness my hand and seal of this Court,
[L. S.] at office, this 19th day of Sept.,
1879.

J. R. McCANN,
Clerk.

77 COMPLAINANTS' EXHIBIT J.

W. H. D. L., Spl. Exr.

NASHVILLE AND NORTHWESTERN RAILROAD CO.

$75,000.
4118 to 4192.

Received, Nashville, July 17th, 1866, of W. G.
Brownlow, Governor of the State of Tennessee,
seventy-five of the six per cent. coupon bonds of
78 the State of Tennessee, for one thousand dollars
each, principal and interest payable in New York,
bonds falling due January 1st, 1892; the first
coupons fall due January 1st, 1867, semi-annual interest.
Said bonds are of the Green issue of 1866,
not lettered but numbered from 4118 to 4192, both
numbers inclusive.

Twenty-five of said bonds are issued to the Nashville
and Northwestern Railroad Co., in accordance
with an act of the General Assembly of the State of
79 Tennessee, passed January 18th, 1866, and completes
the issue authorized by said act, and the remaining
fifty bonds are issued in accordance with
an act of the General Assemby of the State of Tennessee,
passed May 22d, 1866, and completes the
issue authorized by said act. Said bonds are issued
to the Northwestern Railroad Co., to aid it in building
its bridges and putting the road in running
order.

M. BURNS,
80 *Pres. N. and N. W. R. R. Co.*

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of M. Burns, Prest. N. & N. W. R. R. Co., for 75 Tennessee State bonds, from No. 4118 to 4192, both inclusive, the original of which is now of record in my office.

• In testimony whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the city of Nashville, this 18th day of September, A. D. 1879. 81

[L.S.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. } 82

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879. 83

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the 84 County Court in and for said County, duly elected and commissioned and qualified as such; and that said attestation is in due form of law.

Witness my hand and seal of said Court, at office, this 19th day of Sept., 1879.

[SEAL.]

J. R. McCANN,
Clerk.

85 COMPLAINANTS' EXHIBIT K.

W. H. D. L., Spl. Exr.

NASHVILLE & NORTH-WESTERN R. R. Co.

5,594 to 5,793.

Received, Nashville, Tennessee, Jany. 2, 1867, of W. G. Brownlow, Governor of the State of Tennessee, two hundred of the six per cent. coupon bonds of the State for one thousand dollars each, principal and interest payable in New York, the bonds on 86 the 1st of January, 1892, and the first coupons on the 1st of July, 1867. Said bonds are of the Green issue of 1866, not lettered, but numbered from 5,594 to 5,793, both numbers inclusive.

Said bonds are issued under the Act of December 10th, 1866, (amendatory of the Act of February 11, 1852, appropriating $200,000 to the Nashville and North-western R. R. in bonds and are received subject to the conditions of said acts. Coupons due January, 1867, removed before issued.

87 M. BURNS,
Prest. N. & N. W. R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of M. Burns, Prest. N. & N. W. R. R. Co. for 200 Tennessee State bonds from No. 5,594 to 5,793, both inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto
88 subscribed my official signature;
and, by order of the Governor,
[L.S.] affixed the Great Seal of the State
of Tennessee, at the Department in
the city of Nashville, this 18th day
of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, } 89
Davidson County. }

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on 90
this 19th day of Sept., 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE. }
Davidson County, }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of 91
signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such; and that said attestation is in due form of law.

Witness my hand and seal of said Court,
[L.S.] at office, this 19th day of Sept.,
1879.

J. R. MCCANN,
Clerk. 92

93 COMPLAINANT'S EXHIBIT L.

W. H. D. L., Spl. Exr.

NASHVILLE AND N. W. RAILROAD.

$92,000.
No. 8,202 to 8,293.

Received, Nashville, Tennessee, June 25th, 1867, of W. G. Brownlow, Governor of the State of Tennessee, ninety-two of the coupon bonds of said State, for one thousand dollars each, principal and
94 interest payable in New York, the bonds on the 1st of January, 1892, and the first of the semi-annual coupons fall due July 1st, 1867. Said bonds are of the Green issue, not lettered, but numbered from 8,202 to 8,293, both numbers inclusive.

Said bonds are issued to the Nashville and Northwestern Railroad upon their final application for State aid under the act of 1852, and is receipted in full satisfaction of the aid to which said road is entitled under said act.

95 M. BURNS,
Prt. of the Nashville and Northwestern R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of M. Burns, Prt. of the Nashville and Northwestern R. R. Co., for 92 Tennessee State Bonds from No. 8,202 to 8,293, both inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto
96 subscribed my official signature; and, by order of the Governor,
[L.S.] affixed the Great Seal of the State of Tennessee, at the Department in the city of Nashville, this 18th day of August, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, } 97
Davidson County.

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on 98
this 18th day of August, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE. }
Davidson County,

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that John C. Ferriss, Esq., whose genuine signature appears to the fore-
going certificate, is now, and was at the time of 99
signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such; and that said attestation is in due form of law.

Witness my hand and seal of said Court,
[L.S.] at office, this 18th day of August,
1879.

J. R. McCANN,
Clerk. 100

Winchester & Alabama R. R. Receipts to the State of Tennessee for Bonds.

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT, 1

District of Tennessee.

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the Winchester & Alabama Railroad Company,

versus 2

The Nashville, Chattanooga and St. Louis Railway *et al.*

It is hereby stipulated and agreed between the parties to the above-entitled suit that the certified copies of the receipts given by the railroads of Tennessee to the State for bonds issued to them respectively, and which have been produced by the 3 complainants herein, shall be marked by the Special Examiner as Complainants' Exhibits, and filed by him separately, and that the same may be read in evidence by the complainants, subject to all legal objection, without attaching the same to the deposition of any one witness.

New York, November 12th, 1879.

E. L. ANDREWS,
Solr. and of Counsel for Complainants, 4

W. Y. C. HUMES,
Solr. and of Counsel for Respondents.

5 Complainants' Exhibit A.

W. H. D. L., Spl. Exr.

$150,000.

WINCHESTER & ALABAMA RAILROAD CO.

Received, Nashville, July 22, 1858, from ISHAM G.
HARRIS, Governor of the State of Tennessee, one
hundred and fifty coupon bonds of said State, each
for one thousand dollars, principal and interest pay-
6 able in New York. Said bonds falling due on the
1st day of January, 1892; first coupon falling due
on the 1st day of January, 1859. Nos. of said
bonds from 7,431 to 7,580, inclusive. These bonds
are issued to the Winchester & Alabama Railroad
Co. for iron and equipment on the first fifteen miles
section from the junction with the Nashville & Chat-
tanooga Railroad.

V. K. STEVENSON,
Agent W. & A. R. R. Co.

7 I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of V. K. Stevenson, Agent Winchester & Alabama Railroad Company, for 150 bonds of Tennessee, from No. 7,431 to 7,580, the original of which is now of record in my office.

In testimony whereof, I have hereunto
subscribed my official signature;
and by order of the Governor, af-
8 fixed the Great Seal of the State
[L.S.] of Tennessee, at the Department
in the City of Nashville, this 18th
day of August, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. } 9

I, JOHN C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office in Nashville, on this 18th day of August, 1879. 10

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of
said county, do hereby certify that John C. Ferriss, 11
Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such; and that said attestation is in due form of law.

[L. S.] Witness my hand and seal of said Court, at office, this 18th day of August, 1879.

J. R. McCANN, 12
Clerk.

13 Complainant's Exhibit B.

W. H. D. L., Spl. Exr.

Winchester & Alabama Railroad Co.

$300,000.

No 1761 to 2060.

Nashville, Tennessee, Jan'y 30, 1868.

Received of W. G. Brownlow, Governor of the
14 State of Tennessee, three hundred of the coupon bonds of said State, for one thousand dollars each. Payable in New York, on the first day of January, 1900, and numbered from 1761 to 2060, both numbers inclusive, with sixty-four coupons attached, also payable in New York; the first of which falls due July 1st, 1868.

Said bonds are of the green issue of the series "B," and are issued to the Winchester and Alabama Railroad Receiver, by order of the Governor.
15 Said bonds are issued to said railroad under Act of Dec. 7, 1867, appropriating three hundred thousand dollars to said railroad.

D. E. DAVENPORT,
Receiver W. & Ala. R. R.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of D. E. Davenport, Receiver W. & Ala. R. R. for 300 Tennessee State bonds, green series B,
16 Nos. 1761 to 2060, both inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 18th day of September, A. D. 1879. 17

[SEAL.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County. 18

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said county, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879. 19

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I, J. R. MCCANN, Clerk of the County Court of said county, do hereby certify that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such; and that said attestation is in due form of law. 20

Witness my hand and seal of said Court, at office, this 19th day of Sept., 1879,

[L.S.]

J. R. MCCANN,
Clerk.

21 Complainant's Exhibit C.

W. H. D. L., Spl. Exr.

Winchester and Alabama R. R. Co.

$250,000.

No. 3460 to 3709.

Received, Nashville, Tenn., June 29, 1866, of W. G. Brownlow, Governor of the State of Tennessee, two hundred and fifty of the six per cent. coupon
22 bonds of said State for one thousand dollars each. Principal and interest payable in New York. Bonds falling due January 1st, 1892; first coupons falling due January 1st, 1867; semi-annual interest. Said bonds are of the green issue of 1866, not lettered, but numbered from 3,460 to 3,709, both numbers included.

Said bonds are issued to the Winchester and Alabama Rail Road Company in accordance with an act of the General Assembly of Tennessee, passed
23 January 18th, 1866, appropriating $372,000 to aid said Winchester and Alabama Rail Road Company in its completion, to build its bridges, and to put its road in running order.

J. M. RUSSEY,
Prest. of W. & A. R. R. Co.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of J. M. Russey, Prest. of W. & A. R.
24 R. Co., for 250 Tennessee State bonds, from No. 3,460 to 3,709, both inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in

[L.S.]

the City of Nashville, this 18th 25
day of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE }
Davidson County. }

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was 26 at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE } 27
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such; and that said attestation is in due form of law.

28

Witness my hand and seal of said
[L.S.] Court, at office, this 19th day of
Sept., 1879.

J. R. MCCANN,
Clerk.

29 **Complainant's Exhibit D.**

W. H. D. L., Spl. Exr.

WINCHESTER AND ALABAMA R. R. CO.

$122,000.

3,996 to 4,117.

Received of, Nashville, July 13, 1866, W. G. Brownlow, Governor of the State of Tennessee, one hundred and twenty-two of the six per cent. coupon 30 bonds of the State of Tennessee, for one thousand dollars each, principal and interest payable in New York, bonds falling due January 1st, 1892. The first coupons fall due January 1st, 1867. Semi-annual interest. Said bonds are of the Green issue of 1866, not lettered, but numbered from 3,996 to 4,117, both numbers inclusive.

These bonds are issued to the Winchester and Alabama R. R. Co., in accordance with an act of 31 the General Assembly of the State of Tennessee, passed January 18th, 1866, appropriating $372,000 in bonds to aid said Winchester and Alabama Railroad Company in its completion, to build its bridges, and to put its road in running order.

J. M. RUSSEY,
Pres. of W. & A. R. R. Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy 32 of a receipt of J. M. Russey, Prest. of W. & A. R. R. Co., for 122 Tennessee State Bonds, from No. 3,996 to 4,117, both inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor,
[L.S.] affixed the Great Seal of the State

of Tennessee, at the Department, in 33
the City of Nashville, this 18th
day of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. }

I, JOHN C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer. 34

Given under my hand, at office, in Nashville, on this 19th day of Sept., 1879.

JNO. C. FERRISS,
County Judge. 35

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such; and that said attestation is in due form of law. 36

Witness my hand and seal of said Court,
[SEAL.] at office, this 19th day of Sept.,
1879.

J. R. McCANN,
Clerk.

37 **Complainant's Exhibit E.**

W. H. D. L., Spl. Exr.

WINCHESTER & ALABAMA R. R. CO.

$150,000.

No. 7,551 to 7,700.

Received, Nashville, April 16th, 1867, of W. G. Brownlow, Governor of the State of Tennessee, one hundred and fifty (150) of the coupon bonds of said State for one thousand dollars each, principal and 38 interest payable in New York, the bonds falling due on the 1st day of January, 1892, and the first coupons on the 1st day of July, 1867. Said bonds are of the green issue, and numbered from 7,551 to 7,700, inclusive.

Said bonds are issued under the Act of December 10th, 1866, to the Winchester and Alabama Railroad Company in full of the appropriation of State bonds by said Act to said road.

39 J. M. RUSSEY,
Prest. W. & A. R. R. Compy.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of J. M. Russey, Prest, W. & A. R. R. Company for 150 Tennessee State bonds, from No. 7,551 to 7,700, both inclusive, the original of which is now of record in my office.

40 [L.S.] In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 18th day of September, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

State of Tennessee } 41
Davidson County. }

I, John C. Ferriss, sole Presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such; and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on 42
this 19th day of Sept., 1879.

JNO. C. FERRISS,
County Judge.

State of Tennessee }
Davidson County. }

I, J. R. McCann, Clerk of the County Court
of said County, do hereby certify, that John C.
Ferriss, Esq., whose genuine signature appears to 43
the foregoing certificate, is now, and was at the
time of signing the same, sole Presiding Judge of
the County Court in and for said County, duly
elected and commissioned and qualified as such;
and that said attestation is in due form of law.

[L.S.] Witness my hand and seal of said Court, at office, this 19th day of Sept., 1879.

J. R. McCANN, 44
Clerk.

Nashville & Chattanooga R. R. Receipts to the State of Tennessee for Bonds.

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT,

Middle District of Tennessee.

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the Nashville & Chattanooga Railroad Company,

versus

The Nashville, Chattanooga and St. Louis Railway *et al.*

It is hereby stipulated and agreed between the parties to the above-entitled suit, that the certified copies of the receipts given by the railroads of Tennessee to the State for bonds issued to them respectively, and which have been produced by the complainants herein, shall be marked by the Special Examiner as Complainants' Exhibits, and filed by him separately, and that the same may be read in evidence by the complainants, subject to all legal objection, without attaching the same to the deposition of any one witness.

New York, November 12, 1879.

E. L. ANDREWS,
Solr. and of Counsel for Complainants,
W. Y. C. HUMES,
Solr. and of Counsel for Respondents.

5 COMPLAINANTS' EXHIBIT A.

W. H. D. L., Spl. Exr.

NASHVILLE AND CHATTANOOGA RAILROAD COMPANY.

$82,000.

Received, Nashville, February 20th, 1860, of Isham G. Harris, Governor of the State of Tennessee, eighty-two coupon bonds of the State of Tennessee for one thousand dollars each, principal and 6 interest payable in New York, said bonds falling due 1st of January, 1898, first coupons falling due 1st of July, 1860; said bonds are numbered from 10,692 to 10,773, both numbers inclusive.

Said bonds are issued to the Nashville and Chattanooga Railroad Company under an Act passed November 4th, 1859.

JAMES A. WHITESIDE,
Agent for the Nash. & Chatt. R. R. Co.

---

7 I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of James A. Whiteside, agent for the Nash. & Chatt. R. R. Co. for 82 bonds of the State of Tennessee, from No. 10,692 to 10,773, inclusive, the original of which is now of record in my office.

In testimony whereof I have hereunto subscribed my official signature, and by order of the Governor affixed the Great Seal of the State of Tennessee, at the Department, in the City of Nashville, this 18th day of August, A. D. 1879.

8 [L.S.]

CHAS. N. GIBBS,
Secretary of State.

State of Tennessee, } 9
Davidson County. }

I, **John C. Ferriss**, sole Presiding Judge of the County Court of said county, do hereby certify, that Chas N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office, in Nashville, on this 18th day of August, 1879. 10

JNO. C. FERRISS,
County Judge.

State of Tennessee, }
Davidson County. }

I, J. R. McCann, Clerk of the County Court of said county, do hereby certify that John C. Ferriss, 11 Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

[L.S.] Witness my hand and seal of said Court, at office, this 18th day of August, 1879.

12 J. R. McCANN,
Clerk.

13 COMPLAINANTS' EXHIBIT B.

W. H. D. L., Spl. Exr.

31.

NASHVILLE & CHATTANOOGA RAILROAD CO.

Received, Nashville, May 30th, 1860, of Isham G. Harris, Governor of the State of Tennessee, thirty-one coupon bonds of the State of Tennessee, for one thousand dollars each, principal and interest payable in New York, bonds falling due 1st day of January, 14 1898, first coupon falling due 1st day of July, 1860. Said bonds are numbered from number 11,195 to 11,225, both numbers included.

Said bonds are issued to the Nashville and Chattanooga Railroad Company, under the act of November the 4th, 1859, for the improvement of their road between Stevenson and Chattanooga,

JAMES A. WHITESIDE,
Agent for the N. & C. R. R. Co.

15

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt of James A. Whiteside, agent for the N. & C. R. R. Co., for 31 bonds of the State of Tennessee, from No. 11,195 to 11,225, inclusive, the original of which is now of record in my office.

In testimony whereof I have hereunto subscribed my official signature, 16 and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department, in the city of Nashville, this 18th day of August, A. D. 1879.

[L.S.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. } 17

I, JOHN C. FERRISS, sole Presiding Judge of the County Court of said county, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

18 Given under my hand, at office, in Nashville, on this 18th day of August, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said county, do hereby certify that John C. Ferriss, 19 Esq., whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole Presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court,
[L.S.] at office, this 18th day of August, 1879.

J. R. MCCANN, 20
Clerk.

CIRCUIT COURT OF THE UNITED STATES.

MIDDLE AND WESTERN DISTRICTS OF TENNESSEE.

C. Amory Stevens *vs.* The Louisville & Nashville Railroad Company *et al.*

Same *vs.* Louisville & Nashville Railroad Company, Nashville & Decatur Railroad Company *et al.*

Same *vs.* Same.

Same *vs.* Louisville & Nashville Railroad Company, Memphis & Ohio Railroad Company *et al.*

Same *vs.* Louisville & Nashville Railroad Company, Memphis, Clarksville & Louisville Railroad Company *et al.*

It is agreed that the following described testimony, so far as relevant and competent, shall be considered as read in each of the foregoing cases, printed copies to be furnished by either of us to the clerk when he makes up the record, as part thereof:

FOR THE COMPLAINANT.

1. Printed stipulation signed E. L. Andrews and Ed. Baxter, as heretofore filed in these causes.

2. Printed stipulation signed by George Hoadly and Stanley Matthews.

3. Printed compilation made up by complainant.

4. Record of proceedings, Davidson County Court, printed.

5. Certificate of cash in State Treasury, printed.

6. Printed statement of prices of State bonds, after January 1, 1870, contained in stipulation of Evarts, Southmayd & Choate and E. L. Andrews.

7. Depositions of C. Amory Stevens, three in number: also of Eugene Kelly, John T. Terry, George Arents, Ed. Baxter, Wm. H. Osborn, Dempsey Weaver and Albert S. Marks.

8. Two depositions of Richard T. Wilson.

9. Printed copy, order of E. M. Stanton, Secretary of War, dated August 8, 1865.

10. Report (printed copy) of Judiciary Committee. W. H. Wisener, Chairman, February 19, 1869, and copy of Senate and House Journal relative to the bill referred to in said report.

11. Act of February 9, 1850, sections 1 to 3 inclusive.

FOR THE RESPONDENTS.

Nos. 1 and 2 as above, being the two printed stipulations above referred to.

3. Printed compilation made up by respondents.

4. Printed record of foreclosure in the Chancery Court at Nashville of the State *vs.* The Memphis, Clarksville and Louisville Railroad Company, all objections on account of its being an incomplete record being waived.

5. Pages 128 to 177, both inclusive, of the printed report of James L. Gaines, Comptroller of the State of Tennessee, to the Forty-first General Assembly of the State of Tennessee, made January 6, 1879.

6. Printed depositions of John C. Brown, Maney Bell, Samuel R. Cruse, John S. Claybrooke, R. C. Jackson, John J. Craig, Campbell Wallace, Neil S. Brown, Columbus Powell, Albert Roberts, D. B. Cliffe, J. W. Drexel, V. K. Stevenson, J. G. M. Ramsey, B. O. White, John M. Fleming, Ira P. Jones, Peter Geddes, J. D. Porter, M. T. Polk and James L. Gaines. The last three were taken by Hon. James Fentress.

The foregoing depositions are such as have been taken in various cases brought by the complainant against the foregoing and other railroad companies in Tennessee.

Also, all depositions and other documentary testimony heretofore filed in the cases named in the caption of this agreement.

While it is agreed that the foregoing depositions and documents may be filed in these cases, it is expressly understood that to make them, or either of them, or any part of either of them, competent in these cases, the testimony must be competent and relevant in these particular cases, and that no special exceptions need be taken to point out the irrelevant and incompetent testimony, but its admissibility may be pointed out and relied upon in argument or brief, both in the Circuit and Supreme Court.

It is also expressly understood that where any fact is agreed upon in the stipulation signed by Andrews and Baxter, or in the stipulation signed by Matthews and Hoadly, referred to above, it shall not be affected by anything contained in the depositions or other documentary proof agreed to be filed in this stipulation.

It is further agreed that the record of the exhibits and testimony aforesaid shall be made up by the clerk in any one of those causes, and that the same shall be treated, regarded and considered as the record of the exhibits and testimony in each and all of the said causes, and that upon appeal to the Supreme Court of the United States a single transcript of the record of said exhibits and testimony so made up may be filed as the record of said exhibits and testimony in each and all of said causes, without filing or docketing any other record except the proper record in each cause so appealed of the pleadings, process, orders and decrees and action and testimony therein other than that contained in said record of said exhibits and testimony.

GEO. HOADLEY,
Solicitor for Complainant.
STANLEY MATTHEWS,
For John B. Smith and others, Defendants.
ED. BAXTER,
Solicitor L. & N. R. R. Co., N. & D. R. R. Co., Mem. & O. R. R. Co., Mem., C. & L. R. R. Co.

NASHVILLE, May 7, 1880.

United States Circuit Court,

1

MIDDLE DISTRICT OF TENNESSEE.

In Equity.

CALVIN AMORY STEVENS, on behalf of Holders of Internal Improvement Bonds of Tennessee, issued to the LOUISVILLE AND NASHVILLE RAILROAD COMPANY, 2

vs.

THE LOUISVILLE AND NASHVILLE AND GREAT SOUTHERN RAILROAD COMPANY.

CALVIN AMORY STEVENS, on behalf of Holders of Internal Improvement Bonds issued to the CENTRAL SOUTHERN RAILROAD COMPANY, 3

vs.

THE NASHVILLE AND DECATUR RAILROAD COMPANY, *et al.* 4

5 CALVIN AMORY STEVENS, on behalf of Holders of Internal Improvement Bonds of Tennessee, issued to the TENNESSEE AND ALABAMA RAILROAD COMPANY,

vs.

6 NASHVILLE AND DECATUR RAILROAD COMPANY, *et al.*

CALVIN AMORY STEVENS, on behalf of Holders of Internal Improvement Bonds of Tennessee issued to the MEMPHIS AND OHIO RAILROAD COMPANY, 7

vs.

THE LOUISVILLE AND NASHVILLE AND GREAT SOUTHERN RAILROAD COMPANY.

8

CALVIN AMORY STEVENS, on behalf of Holders of Internal Improvement Bonds of Tennessee issued to the MEMPHIS, CLARKSVILLE AND LOUISVILLE RAILROAD COMPANY, 9

vs.

THE MEMPHIS, CLARKSVILLE AND LOUISVILLE RAILROAD COMPANY, AND THE LOUISVILLE, NASHVILLE AND GREAT SOUTHERN RAILROAD COMPANY. 10

It is stipulated by and between the parties to the aboved-named suits, in order to avoid the trouble, expense and delay of formal proof, that the following are facts proven in these causes: 11

First.—In reference to the bonds of the State of Tennessee loaned to the railroad companies involved in these causes and their predecessors in interest under the Internal Improvement Laws of the State of Tennessee, as a general proposition, subject probably to some exceptions, the purchasers of said bonds did not know when they purchased the same originally to what 12
companies they had been issued. The information contained in receipts taken by the Secretary of State from the companies as to the bonds loaned before the late war was never made known except as it may be claimed to have been made known by said receipts and by the report of a joint select Committee of the Legislature of Tennessee, appointed by the General Assembly of 1857-8 to investigate the offices

13 of Comptroller and Secretary of State and other purposes, made August 11, 1858, and by a report made by John C. Burch, Comptroller, in 1875. The information relative to the bonds loaned after the war was not made public except as it may be claimed to have been made public by the receipts themselves until a report was made by G. W. Blackburn, Comptroller of Tennessee, in October, 1869.

The bonds were principally negotiated or transferred
either in Tennessee or New York. They were either
14 payable to bearer, using those words, or to blank or order,
leaving the blank unfilled, or, if filled, it was done
with some name other than the companies to whom
they were loaned.

Answer No. 2,462, pp. 3 and 4.

Second.—The name of the Railroad Company to
which the bonds of the State of Tennessee were loaned
under said law does not in any way appear either in or
15 upon the bond.

Ans. No. 2,462, p. 4.

Nor the name of the Railroad Company to which the bonds of the State of Tennessee were issued under other laws passed by the Legislature at the session of 1852, including those issued under the Act of January 15, 1852, does not appear in any way either in or upon the bond.

16 *Third.*—That up to the passage of the Internal Improvement Law of February 11, 1852, the State of Tennessee had never defaulted upon the interest of her public debt, and the straight six per cent. bonds of the State were quoted on the New York Stock Exchange as follows:

Quotations of sales of Tennessee State bonds, taken from the official reports of the New York Stock

Exchange, as published in the New York *Journal of Commerce*, during the year 1852 : 17

Date of Report.		*Amt. of Sale.*	*Price.*
1852.	February 24,	1,000 6's,	102.
"	April 9,	7,000 6's '90,	105.
"	May 31,	2,000 5's,	92.
"	June 17,	2,000 6's,	110.
"	July 19,	2,000 5's,	92.
"	December 9.	5,000 6's '68,	106.

18

Fourth.—The report of J. G. M. Ramsay, Agent of the State of Tennessee for the sale of bonds issued to the East Tennessee and Georgia Railroad, made to the Governor of the State, dated September 20, 1851, may be read by complainant on his behalf without objection to its competency. Respondents reserve the right to introduce any proofs they may obtain in rebuttal of the facts stated in that report.

Fifth.—The Tennessee and Alabama Railroad Company received from the State three hundred bonds in July and September, 1854. The English merchants who sold them their iron failed to deliver it according to contract, and the company refused to pay them, but they reserved one hundred and forty-three of the bonds until the dispute could be settled, and they continued in the company's possession until after August, 1855. On the 30th of June, 1859, said company had on hand 389 State bonds, 301 of which were issued as early as June 4th, 1858. On June 30th, 1860, said company had on hand 303 State bonds, 201 of which had been issued as early as June 4th, 1858. Many other instances of a similar kind could be given where the various railroad companies preferred to use their other means in ironing and equipping the first part of their roads, reserving their State bonds for ironing and equipping other parts of their roads. The companies cut the coupons from these bonds, and with them paid the interest on 19 20

21 these bonds into the Bank of Tennessee, as they did
the interest on those bonds that had been negotiated.

Ans. No. 2,462, pp 8 and 9.

In 1852 the taxable property of Tennessee was $177,-
420,305. The debt of the State then amounted to only
$3,992,856.66, and the rate of State tax was only 11½
cents on the hundred dollars. After the loan of bonds
to railroads there was no difference in the money market
between prices of the bonds loaned to railroads and those
22 issued by the State to raise the capital of the Bank of
Tennessee, or to build her State house; nor was there any
difference in price between the bonds loaned to the
most valuable railroads and those loaned to the most
worthless, except that in both of the above cases a dif-
ference of from two to five per cent. on limited transac-
tions has arisen within the last two years, in the open
market in New York, but no difference has ever existed
on the Stock Exchange of New York, owing to the
way in which Tennessee bonds are called at said Ex-
23 change.

Respondents have caused thorough investigation to be made in each of their offices, and have been unable to find any evidence that there was any record made and kept by them of the numbers, dates, or series of the bonds issued to them, and have no knowledge, information, remembrance or belief in regard thereto (p. 12). The proceeds of these bonds were applied as directed by the laws under which they were loaned to railroads (p. 13).

24 The Comptroller's reports show that the Sinking
Fund Commissioners credited each railroad company
with the annual amounts paid in, but in their invest-
ment thereof selected any bonds of the State that were
offered for sale. Thus, from the Comptroller's report
of 1859 (page 59), it seems that the Tennessee and
Alabama Railroad Company paid to the Treasurer
$6,400, which was invested in one bond endorsed by
the State for the East Tennessee and Georgia Railroad

Company, four State 5½ per cent. bonds, and three 25
State five per cent. bonds. Not one of the bonds purchased with the money paid in by that company had ever been issued to it. The idea of the State at that time was to pay the interest on all the bonds that were paid into the Railroad Sinking Fund, and that the accumulation would be so rapid as to certainly raise a fund that would pay the bonds by their maturity.

In the Comptroller's report of 1859 (p. 16), he states that $82,840.95 paid in by the railroad therein named,
invested with accrued interest, had purchased bonds 26
amounting to $109,750, which paid an annual interest of $6,417.50, or 7¾ per cent. on the investment.

The State had loaned her own bonds to some of her Internal Improvement Companies; she had endorsed the bonds of some of the other companies, and has issued her own bonds to pay for her State House, and for other purposes. The result was that she had several different series of bonds issued under different laws and maturing at different times. Series A were five per
cent. bonds issued under Act of 1838, maturing in 27
thirty years. They were issued principally to pay for stock subscribed by the State in various turnpikes and railroads, and aggregated $1,893,000. Series B were known as "White bonds, six per cent., issued under the Act of February 11th, 1852." Numbers 1 to 7,908 of this series mature in 1892, while numbers 7,909 to 11,806 do not mature until 1898. This series aggregated $11,806,000. Series C were also known as "White bonds, six per cent., issued
under the Act of February 11th, 1852," and due in 28
1898. This series aggregated $1,878,000. Series B and C represented the State Bonds loaned to the various railroads under the said Act of February 11th, 1852, before the war. Under the Act of March 20th, 1860, to illustrate, the East Tennessee & Virginia Railroad Company paid in fifteen of their own endorsed bonds, and two regular State bonds; the Memphis & Charleston Railroad Company paid in sixteen State bonds, and

29 $2,960 in cash ; the Memphis & Ohio Railroad Company
paid in six State bonds ; and so have the McMinnville
& Manchester Railroad, and the Tennessee
& Alabama Railroad.

Though the various Acts of the Legislature and the
reports of the Comptroller and of the Sinking Fund
Commissioners, referred to in the answers, were all
public, no bondholder was ever heard to protest against
the authority assumed by the State, or against the cancellation
and destruction of the securities which the
30 companies had paid into the Sinking Fund. An opinion,
however, of Judges Davis and Davies was obtained,
addressed to J. J. Donaldson, Chairman of Committee
of bondholders, dated May 2, 1870, which is made Exhibit
X to this stipulation. No bondholders ever presented
a State coupon to any railroad company for
payment. No Tennessee railroad company had any
banker or other correspondent in New York to pay the
coupons on the State bonds loaned to it. No company
ever retained in its possession the coupons that had
31 been paid on the bonds loaned to it.

As long as the Bank of Tennessee was in operation it
was regarded as the fiscal agent of the State. All of
its directors were appointed by the State. They were
required to report to the State, and were constantly
kept under its control. The State Treasurer kept none
of the State funds in his own hands, but deposited all
the revenues of the State in the Bank of Tennessee,
and could only check for the same on checks countersigned
by the Comptroller. The Bank of Tennessee
32 paid the interest on all the State bonds, without reference
to the purpose for which they were issued. This
is shown by the report of the Comptroller to the Session
of 1851-2, when the general Internal Improvement
Law was passed. (See his report, page 65.) The Merchants'
Bank of New York and the Bank of North
America of Philadelphia, were the correspondents
through whom the Bank of Tennessee paid the interest

on the State debt. These correspondents would return 33
the coupons to the Bank of Tennessee, by whom they were returned to the State. There was one account on the books of the Bank of Tennessee headed "Treasurer of Tennessee," which was credited by the revenues of the State deposited by the Treasurer, and by the dividends derived from the State's stock in the bank, and the various internal improvement companies in which the State was a stockholder, and was debited by the interest on the entire State debt paid by the Bank of Tennessee, and by such other sums as were 34
drawn by the Treasurer under appropriations made by law. There was also an account on the books of the Bank of Tennessee headed "Interest paid on State Bonds," the object of which was to show the exact amount paid on that account, but it shows nothing as to whom, or for what purpose the bonds were issued upon which such interest was paid. There was also an account headed "Railroad Companies, for Interest," showing the amounts and dates of all payments into the bank by the different companies, but it does not 35
show that the payments were to be appropriated to the interests upon any particular bonds of the State; nor did the bank, in fact, know what bonds had been issued to any named railroad.

The funds paid in by all the railroads were transferred either to the Treasurer's general account or to the account headed "Interest on State Bonds."

The Bank of Tennessee kept entries in its books showing the amount which each railroad company paid in for account of its interest. It is stipulated that ex- 36
tracts from the books of the bank may be read by either party. The moneys paid in by the railroads were sent by the Bank of Tennessee, with other funds to New York and Philadelphia, where they were paid out by the correspondents aforesaid upon coupons of the State, making no distinction between the different bonds of the State.

These correspondents kept no accounts with the rail-

37 road companies, and did not know to whom the bonds were issued, the coupons of which they were paying.

The Merchants' Bank of New York City was the correspondent in New York, through whom the Bank of Tennessee paid nearly all the interest-coupons payable at New York on the bonds of the State of Tennessee, issued for all purposes, and this agency continued from 1852, through the years 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, and to April, 1861.

The ledgers of the Merchants' Bank of New York
38 and the books in which they took the receipts of coupon-holders and the detailed statements of paid coupons forwarded regularly every six months by the Merchants' Bank to the Bank of Tennessee, show that as to all the bonds issued under the Act of 1851–2, Chap. 151, or Acts amendatory thereof, the Merchants' Bank did not keep, nor attempt to keep, an account showing the Railroad Company to whom the bonds were issued, the coupons on which were paid, nor did they attempt to classify or identify the coupons, when paid, as being
39 coupons from bonds issued to any particular Railroad Company.

The only accounts shown on the books of the Merchants' Bank for said years with the Bank of Tennessee were two: first, the general reciprocal account, on one side of which appeared the gross sums of money to the credit of the Bank of Tennessee, and on the other its checks and drafts; secondly, an interest or coupon account, showing the amount of coupons paid, and this account was credited with and balanced by checks
40 drawn by the Bank of Tennessee upon its regular account and balance in the Merchants' Bank at the time, without any discrimination as to the coupons to which the payments were applied.

This admission is made alone to save the expense and trouble of making copies of the entries from said books of the Merchants' Bank, and states truly the facts as they actually appear on said books.

When the State of Tennessee was in default in the

payment of interest on any of its bonds it was in default 41
on all of them then matured, except such as were held by the East Tennessee University and the Commissioners of the Common School Fund, which were provided for by special legislation.

Each coupon could be identified when detached from its bond as having been separated from their respective bonds, which identification existed by means of the color, letter and number of the instruments.

In the Treasurer's books an account was headed
"Bank of Tennessee," the reverse of the account kept 42
under his name at the said bank. There is also an account headed "Interest on Capitol Bonds," in which is shown the interest paid on the bonds issued to pay for the State House.

There is also an account headed "Interest on Internal Improvement Bonds." It shows the gross amount paid out on such bonds, but it does not show by whom the money was furnished, nor does it show the uumber or character of the bonds on which the interest was paid.
There are no separate accounts with the different rail- 43
roads to be found on the Treasurer's books. With the exception of the distinction between Capitol and Internal Improvement bonds, the Treasurer made no difference between the various bonds of the State, but treated all as equally the obligations of the State.

The interest on the bonds loaned to respondents was not paid after July 1, 1861, except as hereinafter stated. And though the United States Circuit Court was open in Nashville, after its capture by the United States
army in February, 1862, no bondholder ever claimed 44
the right to a receiver for non-payment of interest.

The copies of the resolution and report attached as Exhibits A and B, to the answer of the L. & N. R. R. Co. No. 2,462 are admitted to be correct copies. They were published in the acts and journals of that session.

The bonds and coupons were paid by the L. & N. R. R. Co. as therein stated. The bonds cost 68 4-10 cents

45 per dollar, which includes per cent. of overdue
coupons. The bonds paid to the State by the Memphis
& Ohio Railroad Company cost 63 9-10 cents on the dollar.
The bonds with which the Memphis, Clarksville
& Louisville Railroad was bought, cost 63 7-10 cents
on the dollar. The above prices include per
cent. of overdue coupons which price includes the overdue
coupons. And no one ever controverted the right
of the State to make a settlement until this bill was
filed, except so far as the opinion addressed by Judges
46 Davies and Davis to J. J. Donaldson as Chairman of
the Committee of Tennessee bondholders circulated in
pamphlet in New York City and some in Europe in
1870, may be so considered.

The Louisville & Nashville Railroad Company on
April 8th, 1868, executed a mortgage or trust deed duly
registered, upon its main stem and branches, to James
Punnett and Junius B. Alexander, citizens of the State
of New York, to secure an issue of eight millions of
dollars of bonds of which $7,070,000 were sold in Europe
47 and are now outstanding in the hands of European
holders for value, who had not received any notice of the
existence of any claim to a statutory lien on the roads,
except such as may be implied from the Tennessee laws
of 1851-2, and their amendments, and the fact that the
said opinion of Judges Davies and Davis addressed to
J. J. Donaldson as Chairman of the Committee of
bondholders was circulated as aforesaid.

The said Punnett has since died, and John B. Smith,
a citizen of Louisville, Kentucky, has been substituted
48 as trustee. On November 1st, 1873, said company executed
another mortgage or trust deed, duly registered,
conveying the same property and also the Memphis &
Ohio and the Memphis, Clarksville & Louisville Railroads
to Henry F. Vail, a citizen of the State of New
York, and John B. Smith, a citizen of Louisville, of
Kentucky, to secure an issue of four million dollars of
bonds, of which two million are now outstanding in the
hands of holders for value, who had not received any

notice of the existence of any claim to a statutory lien 49
on the roads, except such as may be implied from the
Tennessee laws of 1851-2, and their amendments, and
the fact that the said opinions of Judges Davies and
Davis addressed to J.J. Donaldson, as Chairman of the
Committee of bondholder was circulated as aforesaid.
In March, 1865, the bonds of the State of Tennessee
were of the market value of fifty cents, but in December,
1865, they were at 92 cents in the dollar, as stated
by the Financial Review of New York. The Nashville
& Decatur Railroad Company, created by the consolida- 50
tion of the Tennessee & Alabama Railroad Company
and the Central Southern Railroad Company, in March,
1871, paid to the State of Tennessee $2,368,176 in bonds
and coupons of the State. Said company had raised
the money to buy the bonds and coupons paid in by
them, by mortgaging the road for $2,100,000, in 1870,
and selling the company's bonds in the New York
market. None of the State bondholders attempted by
any legal proceedings to assert any rights in opposition
to the course which that company was pursuing except 51
so far as obtaining the opinion of counsel above referred
to. And the Louisville & Nashville Railroad Company
leased said Nashville & Decatur Railroad in May, 1871,
agreeing to pay $2,450,000, of the debts of said company,
and an annual six per cent. dividend upon its capital
stock of $1.512,184.11, and in addition to all this, the
Louisville & Nashville Railroad Company have spent
$ over and above their receipts
in the repair and operation of said road.

On May 25th, 1871, the Memphis & Ohio Railroad 52
Company paid the State of Tennessee $2,468,376.50 in
bonds and coupons of the State. On the first of June,
1871, said Memphis & Ohio Railroad Company mortgaged
its road for $3,500,000 of bonds, which were originally
sold and are still held in Europe by holders, who
had not received any notice of the existence of any claim
to a statutory lien on the roads except such as may be
implied from the laws of Tennessee of 1851-2, and their

53 amendments,and the said opinion of Judges Davies and Davis addressed to J. J. Donaldson as chairman of the Committee of Bondholders, circulated as aforesaid. No State bondholder having made any complaint to Court or addressed to them, the Louisville & Nashville Railroad Company consolidated with said Memphis & Ohio Railroad Company, endorsed said $3,500,000 of bonds, and have since expended $ over and above their receipts in the repair and operation of said road.

54 In January, 1871, the State of Tennessee filed its bills in the Chancery Court at Nashville, Tennessee, against the Memphis, Clarksville & Louisville Railroad Company, to whom State bonds had been loaned, upon which such proceedings were had as will appear by a certified transcript of the record to be filed in these cases. The State bondholders have never sought to review or to reverse said decree.

On August 1st, 1872, the Louisville & Nashville Railroad
Company placed a mortgage on said last-named
55 road for $2,465,000 of bonds which the Louisville &
Nashville Railroad Company endorsed, and which were
originally sold in Europe in 1872.and are still held there
by holders for value, who had not received any notice
of the existence of any claim to a statutory lien on the
roads, except such as may be implied from the Tennessee
laws of 1851-2, and their amendments, and the said
opinions of Judges Davies and Davis addressed to J. J.
Donaldson as Chairman of the Committee of Bondholders,
circulated as aforesaid. Said Louisville and
56 Nashville Railroad Company have also expended
$ over and above their receipts in
the repair and construction of said road.

With the exception of some interest paid in 1867-8, and some paid in 1874-5, the State of Tennessee has paid no interest since the commencement of the late war, and the remainder of the interest has all been funded into new bonds of the State, except that which matured since January 1st, 1876, and it has neither

been funded nor paid. The Act of 23d November, 57
1865 (see Public Acts, 1865–6, pp. 11 and 12) was carried into execution as to all the railroads in this litigation.

All, or nearly all, of the past due coupons referred to in said Act were funded by the present bondholders or those under whom they claim. The coupons were delivered to the State, pasted in books kept in the comptroller's office, and new bonds received from the State for the old coupons. A new bond might have been for coupons on bonds loaned to several different railroad companies or on bonds not loaned to any railroad com- 58
pany, and so of the practice under the funding Act of 1873.

The Nashville and Decatur Railroad Company and the original companies forming the consolidation had received State bonds, which, with interest and sinking fund, amounted to $2,368,176. They met ther interest in January, 1869, but fell behind $15,955.26 on their interest for July, 1869.

This authorized the State to appoint a receiver ; and experience on other roads had taught that in every in- 59
stance these State receivers had run the roads down, without ever reducing the indebtedness.

In October, 1869, the debt of Tennessee was $37,590,027.08, of which about $30,000,000 were for bonds loaned to railroad companies, with funded interest thereon. The State's bonds ranged in New York in 1869 from 70 cents in January to 40½ cents on the dollar in December, there being no distinction between bonds loaned to railroads and any other bonds.

On July 1, 1870, the Nashville and Decatur Railroad 60
Company excuted a mortgage or trust deed upon their railroad property, rights and franchises, conveying the same to Philo C. Calhoun, Richard T. Wilson, and Adrian Iselin, all citizens of the State of New York, to secure first mortgage bonds to the amount of $2,100,000 issued and negotiated to raise the money to buy the State bonds to pay the debt due from said company. Said mortgage was duly executed and registered. The

61 bonds are now outstanding in the hands of persons who for most part are citizens of states or countries other than Tennessee, holders for value, who had not received any notice of the existence of any claim to a statutory lien on the roads, except such as may be implied from the Tennessee laws of 1851–2, and their amendments, and the said opinion of Judges Davies and Davis addressed to J. J. Donaldson as chairman of the Committee of Bondholders, circulated as aforesaid.

62

The following is a copy of one of said bonds:

[*Form of Bond.*]

No.. UNITED STATES OF AMERICA. $1,000.

63 STATES OF TENNESSEE AND ALABAMA.

THE NASHVILLE AND DECATUR RAILROAD COMPANY.

7 per cent. First Mortgage Sinking Fund Bond.

The **NASHVILLE AND DECATUR RAILROAD COMPANY** promise to pay to the holder of this Bond, on the first day of July, one thousand nine hundred, for value received, the sum of *one thousand dollars*, in lawful money of the
64 United States, in the City of New York, with interest in the meantime at the rate of *seven per cent.* per annum, payable semi-annually on the first day of January and July of each year on delivery of the annexed interest warrant.

U. S.
Int. Rev.
Stamp.
$1.05.

This bond, with others of like tenor and date, amounting in the aggregate to a sum not exceeding two million one hun-

dred thousand dollars, is secured by a 65
first mortgage on the railroad and franchises of said company made by Philo C. Calhoun, Richard T. Wilson, and Adrian Iselin, and is entitled to the benefit of a sinking fund, as set forth in the deed of trust.

This Bond shall pass by delivery or by transfer on the books of the company. After a registration of ownership, certified hereon by the Transfer agent of the 66
Company, no transfer except on the books of the company shall be valid unless the last transfer be to bearer.

IN WITNESS WHEREOF, the said Nashville and Decatur Railroad Company has caused this bond to be signed by its President and Secretary, and its corporate seal to be hereunto affixed, at the City of Nashville, Tennesse, on the first day of 67
July, Anno Domino one thousand eight hundred and seventy.

J. W. SLOSS
President.

[SEAL.] G. W. SEAY,
Secretary.

I certify that the Nashville and Decatur Railroad Company has paid off the debt to the State of Tennessee, which was created by the loans of the bonds of said 68
State, and for interest thereon, and that this bond is secured by a first mortgage, and is issued under authority of law, and takes the place of the lien which was held by the State.

ED. R. PENNEBAKER,
Comptroller of the State of Tennessee.

By P. C. CALHOUN,
Prest. Agent.

ONE THOUSAND DOLLARS.

SECURED BY FIRST MORTGAGE.

69 [*Form of Coupon.*]

THE NASHVILLE AND DECATUR
$35 Railroad Company $35
will pay the bearer in the City of New York Thirty-five dollars in lawful money of the United States, on the first day of.... 18.. for semi-annual interest on bond No....

G. W. SEAY,
Secretary.

[*Trustees Certificate.*]

70 We certify that this bond is one of a series not exceeding two million one hundred thousand dollars, described in and secured by the deed of trust or mortgage mentioned herein, bearing date first day of July, Anno Domini one thousand eight hundred and seventy, which is duly recorded.

P. C. CALHOUN,
R. T. WILSON,
ADRIAN ISELIN, } *Trustees.*

71

The State Comptroller in his report in 1869, page 50, suggested to the Legislature the propriety of selling a sufficient number of the railroads for bonds of the State, to lessen the State's liabilities eight or ten mil-
72 lions of dollars, he believing with such reduction the State's liabilities could be regularly and certainly met. His report in 1867 (page 67) shows that the railroads then owed $800,000 for interest due July 1st, 1867, which the State had paid on the bonds loaned them.

The Comptroller in his report for 1867 states that the records of his office show that from the railroads then in the hands of Receivers scarcely a dollar had been received during the past fiscal year (page 13). If the

State had forced a sale of all the delinquent railroads 73
so large an amount of such property thrown upon the
market, in the depressed financial condition of the
country, would have sacrificed alike the interest of the
companies and the State, but by allowing the com-
panies to pay their debts in any of the bonds of the
State, and giving them a reasonable time in which to
get the bonds, they were enabled to procure them at
reasonable rates, and by reducing the aggregate debt
of the State, they increased the ability of the State to
pay, and the bonds of the State which were quoted as 74
low as 40½ in December, 1869, were quoted as high as
91¼ cents on the dollar in March, 1874, at the New
York Stock Exchange.

An elaborate opinion was written at the instance of
the Nashville and Decatur Railroad Company, by
Colonel Pryor, which was concurred in by the Hon. E.
H. East, of Nashville, who was then and is now one of
the most eminent lawyers of Tennessee. The object of
asking the opinion was not to satisfy said company,
but to place the question fairly before the money 75
markets of the world, where said company was trying
to raise the means to buy the bonds to deliver to the
State as they claimed in payment of their debt to the
State. The respondents knew nothing of any opinion
of New York counsel to the same effect that was pub-
lished at or about that time. It is true that the trans-
action in all its entirety was fully understood by the
N. & D. R. R. Co., and they supposed it was also un-
derstood by the purchasers of their new bonds, as the
legislation under which they were issued was referred 76
to in the mortgage, and the opinion of Colonel Pryor
was published to give information on the subject.
Said company acted upon the advice of counsel, and in
confidence that said advice was correct.

It is stipulated that the amount of bonds received from the State of Tennessee, the dates of default stated in the pleadings, are true.

It is admitted that there had been issued to the Mem-

77 phis and Ohio Railroad Company State Bonds which,
with interest and sinking fund, amounted in
year to $2,396,110. They met their interest in January,
1867, but failed to pay their interest for July,
1867. The Governor, however, felt bound to comply
with the law and appointed a Receiver to take charge
of the road; said Company were also heavily indebted
for labor, materials and supplies. The earnings were
insufficient to pay operating expenses, and additional
means were needed to put the road in a safe condition.

78 The Louisville and Nashville Railroad Company being
greatly interested in the efficient operation of said
road as a part of the Louisville and Memphis line, had
already advanced to said Memphis and Ohio Railroad
Company $125,000, and then agreed to lease their road,
to pay the interest on the State Bonds to the State of
Tennessee, and to pay the debts of said Company incurred
since the war in the reconstruction and operation
of the road. They were to reimburse themselves, if
possible, from the earnings of the road, but if there
79 should be a surplus of earnings, it was to be paid over
to the Memphis and Ohio Railroad Company (p. 33).

The Louisville and Nashville Railroad Company paid
the interest upon the bonds loaned to said last-named
road. Said payments were made regularly each six
months from July, 1867, to July, 1871. Each semi-annual
payment amounted to $71,883.30, and they were
made mostly in cash, though some were made in past-due
bonds and coupons of the State. During most of
this time the State was in default upon the interest due
80 on the bonds loaned to the Memphis and Ohio Railroad
Company, and was using for other purposes the
money which the Louisville and Nashville Railroad
Company were paying to enable her to meet interest on
said bonds.

On the 25th of May, 1871, the Memphis and Ohio Railroad Company paid the State of Tennessee $2,468,376.60, in bonds and coupons of the State, as the Company claimed in full of all claims and de-

mands of said State against said Company, and in full 81
discharge and satisfaction of all liens upon the property, rights, franchises and privileges of said Company originating in, or created by, the loan or issuance and delivery to said Company of the bonds of said State under or by virtue of the Act of the Legislature of said State, passed the 11th day of February, 1852, entitled, "An Act to create a system of internal improvements in this State," and under the Acts amending the same, or any other Acts of said Legislature.

82 The Comptroller of said State executed and delivered to said Company a receipt evidencing said payment, and a copy of said receipt is hereto filed, marked Exhibit C., to the Mem. & O Answer.

On June 1, 1871, said Memphis & Ohio Railroad Company executed a mortgage or trust deed upon their railroad property, rights and franchises conveying the same to Junius B. Alexander, a citizen of New York, and John B. Smith, a citizen of Kentucky, to secure $3,500,000 of claiming or purporting to be first mortgage bonds, 83 Said mortgage was duly executed and registered, and the bonds originally negotiated in Europe in 1871, are now outstanding in the hands of holders there for value, who had not received any notice of the existence of any claim to a statutory lien on the roads, except such as may be implied from the Tennessee laws of 1851-2, and their amendments, and the circulation as aforesaid of the said opinion of Judges Davies and Davis, and addressed to J. J. Donaldson, as Chairman of Committee of bondholders.

84 After the Memphis and Ohio Railroad Company had delivered the bonds to the State as aforesaid, and had mortgaged their road, the Louisville & Nashville Railroad Company endorsed $3,500,000 of bonds secured by said mortgage, and on October 9, 1872, entered into formal articles consolidating the two companies as stated above, the consolidation becoming bound for all the debts of the Memphis & Ohio Railroad. The articles of consolidation were duly registered in Octo-

85 ber, 1872, in all the counties in Tennessee through
which the Memphis & Ohio Railroad ran.

On November 1, 1873, the Louisville & Nashville R.
R. Co. executed a mortgage on their main stem and
branches, including the Memphis & Ohio Railroad, con-
veying the same to Henry F. Vail, a citizen of New
York, and John B. Smith, a citizen of Kentucky, to se-
cure $4,000,000 of bonds, $2,000,000 of which are now
outstanding in the hands of *bona fide* holders for value,
who had not received any notice of the existence of any
86 claim to a statutory lien on the road, except such as
may be implied from the Tennessee laws of 1851-2, and
their amendments, and the circulation as aforesaid of
the said opinion of Judges Davies and Davis addressed
to J. J. Donaldson, as Chairman of the Committee of
bondholders. Said mortgage was duly registered (p.
37.)

With reference to the answer in the Memphis,
Clarksville and Louisville R. R. Co., The M. C. & L.
R. R. Co. having defaulted on its interest, the Governor
87 placed it in the hands of a Receiver as early as July
1st, 1865, and though it was continued under State
Receivers until it was sold "it never paid one cent
into the treasury on any account whatever."

The easterly span of the Cumberland river bridge,
and the whole of the bridge over the Tennessee River
had been destroyed during the war, some of the trest-
ling had been swept away, some of it had been thrown
out of position, and all of it that was standing needed
extensive repairs. One of the most frightful railway
88 accidents of modern times occurred on this road in con-
sequence of a passenger train running through the
Budds creek trestle. The dirt embankments had been
badly washed, and the cuts filled up with mud, in
some instances ten feet deep. Many parts of the road
were overgrown with grass, weeds and briars. The
farmers along the road, being in need of iron during
the war, had taken rods, bolts, spikes and chairs for
blacksmithing purposes, and had even cut the bridges

and trestles to get the iron. Switch circles, targets 89
and connecting rods were taken off and used for the
same purpose.

This railroad is about eighty-two miles long. The termini are both small villages of no commercial importance, and the country traversed is poor and sparsely settled. The road crosses three large rivers, and numerous small streams requiring many bridges and trestles. The cost of construction and maintenance of way is enormous, while the local business of the road
is almost nothing. To have kept such a road in opera- 90
tion through a receiver until the State bonds loaned to it matured would have cost the State millions of dollars. To have allowed it to remain unused would have been equivalent to abandoning it to waste and destruction, and as to the company keeping it up, they were utterly insolvent, and as early as March 28, 1867, initial proceedings to go into voluntary bankruptcy, for which purpose they afterwards filed a petition in the United States District Court at Nashville.

It is agreed that the bill of the Memphis, Clarksville 91
and Louisville Railroads against the Commissioners for the sale of delinquent railroads and the action thereon may be read.

After their purchase of the Memphis, Clarksville and Louisville R. R. Co., the Louisville and Nashville Railroad Company executed a mortgage upon said Memphis, Clarksville and Louisville Railroad Company, conveying it to Junius B. Alexander, a citizen of New York, and John B. Smith, a citizen of Kentucky, to se-
cure $2,465,200 of bonds, which were endorsed by the 92
Louisville and Nashville Railroad Company and negotiated in Europe in 1872, where they are now outstanding in the hands of purchasers for value. Said mortgage was executed August 1, 1872, and shortly thereafter was duly registered in all the counties through which said road runs. The purchasers of said bonds had not received any notice of the existence of any claim to a statutory lien on the roads except such as

93 may be implied from the Tennessee laws of 1851--2,and
their amendments, and the circulation as aforesaid of
the said opinions of Judges Davies and Davis, and addressed
to J. J. Donaldson as Chairman of the Committee
of Bondholders

Afterwards, on November 1, 1873, the Louisville and
Nashville Railroad Company executed a mortgage on
their main stem and branches, including said Memphis,
Clarksville and Louisville Railroad to secure $4,000,000
of bonds, $2,000,000 of which are now outstanding in
94 the hands of purchasers for value who have not received
any notice of the existence of any claim to a
statutory lien on the roads except such as may be implied
from the Tennessee laws of 1851--2, and their
amendments,and the circulation as aforesaid of the said
opinion of Judges Davies and Davis addressed to J. J.
Donaldson as Chairman of the Committee of Bondholders.
Said mortgage conveyed said property in
trust to Henry F. Vail, a citizen of New York, and
John B. Smith, a citizen of Kentucky,and was, shortly
95 after its execution, duly registered in all the counties
through which said Memphis, Clarksville and Louisville
Railroad runs. Said road lies entirely within the
State of Tennessee.

It is admitted that the complainant received several
years ago from his father, who had been an owner of
Tennessee bonds for many years, an amount between
one and two hundred thousand dollars of
said Tennessee bonds ; he also became an owner of such
bonds by individual purchases made on his own account
96 about eight years ago. The aforesaid bonds cost his
father and himself more than eighty cents on
the dollar; and that in addition thereto for
sometime prior to the filing of these bills, he was engaged
in the New York market in selecting Tennessee
State bonds loaned to the Central Southern and the
other companies involved in these suits, and has been
buying Tennessee bonds on the market at heavy rates
of discount, at less than fifty per cent. of their par
value ; that he has been exchanging Tennessee bonds

which had not been loaned to railroads for bonds issued 97
to respondents, paying one or two per cent. for the exchange.

That at the time he was making these transactions he knew that the defendant railroad companies claimed that they had paid their entire debts on account of Tennesssee bonds, and denied all liability either to the State or to the bondholders for bonds, but complainant relied upon what he thought were the rights conferred upon holders of such bonds by the Internal Improvement Act of February 11, 1852, and its amendments, 98
and did not believe that it was in the power of the State and the railroad companies to discharge the lien which he believed was created by those acts except by actual payments to the holders.

Some of the bonds sued on in these suits were received from complainant's (Stevens) father; some were purchased about eight years ago by him, some were recently acquired by him by purchase or exchange, as stated above. That James L. Gaines has been Comptroller of the State of Tennessee since January, 1875. 99

It is further stipulated that all statutes, public documents and records of the State of Tennessee may be read as evidence by either party on the hearing of the causes, subject to exception for irrelevancy. They may be so read, as may also the public statutes of New York, from the usual official publications without any more formal proof, except that either party may introduce certified copies of the original documents where any difference appears between the published volumes and such originals. Other facts not embraced in this stipu- 100
lation and deemed material by either party may be subject of proof in the usual mode.

It is further agreed that all five of the above cases may be heard at the same time and place before the same Court.

E. L. ANDREWS,
Solicitor for Complainants.

ED. BAXTER,
Solicitor for Respondents.

August 14, 1879.

IN THE
CIRCUIT COURT OF THE UNITED STATES,
FOR THE MIDDLE DISTRICT OF TENNESSEE.

Calvin Amory Stevens, who sues for himself and other holders of the Bonds of the State of Tennessee issued to the Louisville and Nashville Railroad Company,

1 *vs.*

The Louisville and Nashville Railroad Company and John B. Smith.

Same, upon Bonds issued to the Tennessee and Alabama Railroad Company,

2 *vs.*

The Nashville and Decatur Railroad Company, Charles Diggelman, and others.

Same, upon Bonds issued to the Central Southern Railroad Company,

3 *vs.*

Same defendants.

IN THE CIRCUIT COURT FOR THE WESTERN DISTRICT OF TENNESSEE.

Same, upon Bonds issued to the Memphis, Clarksville and Louisville Railroad Company,

4 *vs.*

The Louisville and Nashville Railroad Company and John B. Smith.

Same, upon Bonds issued to the Memphis and Ohio
Railroad Company,
vs.
Same defendants.

IN EQUITY.

Agreed Statement of Facts.

It is hereby stipulated and agreed by and between the parties hereto, being parties to the above-entitled suits, in order to avoid the trouble, expense, and delay of formal proof, that the following may be taken and held to be proven as facts in each of said causes, as far as applicable thereto, but subject to all proper objections for incompetency or irrelevancy.

1. The stipulation dated August 14, 1879, signed by E. L. Andrews, solicitor for complainants, and Ed. Baxter, solicitor for respondents, is to be taken as part of this agreement, as fully as if recited and again set forth herein.

2. Either party shall be at liberty to use any or all of the depositions taken in any or all of the cases now pending in the Circuit Courts of the United States for the Eastern, Middle and Western Districts of Tennessee, brought by the said complainant, or by him and others, to enforce the lien reserved by the internal improvement laws of said State against divers railroad companies, so far as the testimony therein contained may be competent and relevant herein. A list or statement of such depositions shall be furnished by the party using the same to the other at the hearing, and printed copies of such depositions shall be filed in any case in which the same may be used.

3. Either party shall be at liberty to file in any of

these causes a copy of the whole or any part of their printed compilation of laws, records, and documents, and either party may read as evidence, without further proof, such parts thereof as they may see fit, subject to all proper objections, on the ground of incompetency or irrelevancy.

4. It is further agreed that the Louisville and Nashville Railroad Company is a body corporate and politic, chartered by the acts of the General Assembly of the Commonwealth of Kentucky. The right of way to construct its railroad from the line between the States of Kentucky and Tennessee to Nashville was granted it by the acts of the General Assembly of Tennessee, but it has never been incorporated by said State, and, therefore, is not a citizen thereof, but of the State of Kentucky; that the object and purpose of the creation of said corporation by the said charter and laws, was the construction, completion, and thereafter the operation and management, among others, of a line of railway for the transportation of passengers and freight, from the City of Louisville, in the State of Kentucky, to the City of Nashville, in the State of Tennessee. For this purpose such powers were granted to said corporations as are declared in the several charters and acts of incorporation of Kentucky, and acts giving it a right of way and to transact business in the State of Tennessee. The said corporation was authorized to borrow money for the purposes of the enterprise. It was likewise authorized to impose liens and execute mortgages upon its property to provide for and insure the payment of its liabilities.

That all bonds of the State of Tennessee loaned to railroad companies under the act of the General Assembly of the State of Tennessee, passed February 11, 1852, and the acts amendatory and supplementary thereto, including those loaned to the

Louisville and Nashville Railroad Company, were sold in the market as straight Tennessee State bonds, as distinguished from bonds of railroad companies, indorsed or guaranteed by the State; that what were known in the market by the public as straight Tennessee bonds the said, bonds including those loaned to the Louisville and Nashville Railroad Company, sold before the war, at the following prices:

While bonds of other descriptions, on which the railroad companies were bound as principals, and the State of Tennessee as surety, were sold at the following prices:

That the Louisville and Nashville Railroad Company received from the State of Tennessee her six per cent. coupon bonds, at the times and in the amounts following, and none others, and at no other dates, namely:

Rec'd	April	30,	1858,	50	bonds	amounting	to	$50,000
"	"	"	"	150	"	"	"	150,000
"	"	"	"	100	"	"	"	100,000
"	July	15,	1859,	150	"	"	"	150,000
"	April	20,	1861,	5	"	"	"	5,000

Said bonds, to the amount of five hundred and sixty thousand five hundred dollars, were received by or on behalf of the Louisville and Nashville Railroad Company, through properly appointed officers, and were by said company negotiated and sold, in pursuance of law, to *bona fide* holders, but none were received prior to April 30, 1858. The proceeds of these bonds were applied as directed by the laws under which they were loaned to said railroad company; that the State of Tennessee has failed to pay to the holders of its bonds the coupons thereon, representing interest accruing thereon, which became due on the first day of July, 1876, and all falling due since that date, and is in default therefor; that, on May 5, 1865, the General Assembly of the State, by joint resolution, appointed the comptroller, secretary of state, attorney-general, and commissioner of public works a board to make a settlement with the Louisville and Nashville Railroad Company, and if a satisfactory settlement could not be obtained, the governor was authorized to have instituted such legal proceedings as might be necessary to protect the interests of the State. On the 18th of November, 1865, said commissioners reported to the legislature that they had effected a settlement; that the bonds loaned said company by the State amounted to $560,500, and the overdue interest thereon to $147,131.25; that the company had proposed to pay the entire principal in straight six per cent. coupon bonds of the State and the interest in coupon bonds of the State then due. The commissioners say: "Believing it to be manifestly for the interest of the State to call in this large installment of its indebtedness, and believing, moreover, that the company had a right under the law regulating the sinking fund to pay off its entire indebtedness in the bonds of the State, your commissioners accepted the proposal, and executed to the company a receipt dated November 17, 1865, for $707,631.25 in bonds and coupons of the State, being the total indebtedness of said company to the State of Tennessee on account of the bonds of the State received in aid of the construction of said road and the bridge across the Cumberland river." True copies of said resolution and report are annexed to the answer filed by John B. Smith in the first of said cases; that the said railroad company actually delivered said bonds and coupons as in said receipt is recited; that at the time this settlement was made in 1865, the State was in default for non-payment of the interest on its bonds from July, 1861; that the bonds and coupons paid by the Louisville and Nashville Railroad Company to the State of Tennessee in the said settlement, were not the identical bonds and coupons originally advanced and loaned to said company and by it negotiated and sold, but that the same, in part at least, were other bonds and coupons of the State of Tennessee; that, at the time said settlement was made, the war had but recently prior thereto definitely closed. During the period of actual military operations, the railroads had been the prize of contending armies, as instruments of offense and defense. In the course of the struggle, they had been stripped of their equipment, and parts of them destroyed and repaired, and, in some cases built and extended, by the United States government, to fit them for military use, but so that when they were finally restored, on or about August, 1865, to their owners, they were destitute of rolling stock, cars, machinery, shops, and tools, and almost every thing needed for an equipment, nearly every thing of that description then in actual use upon the roads being the property of the United States, furnished and employed for its military uses. This they were permitted to purchase and did so in pursuance of executive orders issued by the President of the United States in September and October of that year, but being unable to pay cash, gave their obligations for the purchase-money payable in installments and bearing interest. The roads themselves, their road-beds, tracks, trestle-works, bridges, and permanent works of every description, were, to a greater or less extent, out of repair, in need of restoration, in some instances in a state of actual dilapidation. Business of every kind had been largely suspended by the war, except military transportation, and now that employment ceased with the cessation of hostilities, but the fruits of peace, in the revival of industry and trade, could only come with the lapse of time, and the gradual accommodation of the community to the new order of things. The general result was that the railroads required large sums of money to put them in a condition to earn an income, and, after that, would have to wait the slow operation of general causes upon the social condition of the people, before any revival of trade would renew their sources of revenue. In the meantime, a large arrearage of debt, for unpaid interest, had accumulated by reason of the default, during the whole period from July, 1861, both of the State and railroad companies, in consequence of which the State scurities had become discredited in the markets of the world.

It is, however, admitted that the said facts of depreciation of property and [credit are true to a less extent of the main line of the Louisville and Nashville Railroad between Louisville and Nashville, than of the other railroads in Tennessee; that about the time said settlement was made with the Louisville and Nashville Railroad Company, to wit, on November 8, 1865, the General Assembly of the State of Tennessee, by joint resolution, appointed a joint committee to examine into the condition of the sinking fund; that every holder of bonds of the State of Tennessee, originally issued under the internal improvement laws, including the complainant, so far as he then owned said bonds, and his predecessors in ownership of the bond since acquired by him, accepted the provisions of the Act of November 23, 1865, delivering to the State the overdue and unpaid coupons of said bonds, which had matured from July 1, 1861, to January 1, 1866, and receiving in exchange therefor the said State bonds, authorized thereby; that, after the proceedings and legislation of the State of Tennessee, hereinbefore and in the pleadings set out, including said settlement with the Louisville and Nashville Railroad

Company of November 17, 1865, and the passage of said Act of November 23, 1865, the market price of the bonds of the State of Tennessee, in the City of New York, rose from about fifty cents on the dollar in the month of March in that year to ninety-two cents on the dollar in the month of December in the same year; that many of the railroad companies were unable to provide the means to meet the interest falling due on the 1st of July, 1867, which by law they were bound to provide, and failed to do so to the extent of nearly $800,000, but that the State nevertheless paid the whole amount of interest falling due on that date on its bonds to the holders thereof; that all the holders of the bonds of the State, including the then owners of the bonds now sued on, accepted the provisions of these acts, and funded their overdue coupons, and received payment of current accruing interest after January 1, 1874, to January 1, 1876, in accordance with the terms of the Act of the General Assembly of the State of Tennessee, passed March 17, 1873, and particularly that they registered their bonds, in compliance with the provisions of the ninth section of said act; that in the meantime, on the tenth day of November, 1868, the Governor of the State had informed the General Assembly that six railroads in the hands of receivers were at that time indebted to the State, on interest account due July 1, 1868, one million one hundred and twenty thousand nine hundred and ninety-six dollars and eighty-six cents, and stated that he would have seized two other roads for failure to pay the July interest of that year, and placed them in the hands of receivers, but that he had learned by experience that to do so would only entail increased burdens upon the State treasury, and expressed the opinion that the interest of these roads, as well as that of the State, required that they should be sold, and the proceeds thereof applied to the reduction of the State debt. In the same message, he said :

"Leading gentlemen, connected with important railroads largely indebted to the State, are asking for authority to issue second mortgage bonds, with a view of exchanging them for State bonds. Thus purchasing State bonds by the avails of these second mortgage bonds, the debt now due by the State would in like amount be transferred to these railroad companies, and so the State would be relieved of a burden of several millions of dollars of debt now resting upon it. I regard this proposition with approval, and advise its adoption by the Assembly. The payment of large debts now due from the roads alluded to, and the sale of the roads already in the hands of receivers, would reduce the State liabilities at least one-third."

That at the session of the General Assembly in 1871, the Governor, in his message to that body, stated that under said Act of February 25, 1869, as amended by the Act of January 20, 1870, ch. 44, over eight million of dollars in the bonds of the State had been retired and canceled; that other roads had purchased and were then purchasing bonds with which to cancel their liabilities to the State under the said acts ; and in order to prevent further delay on the part of solvent roads that had not retired their indebtedness to the State under said act, recommended that the act be either repealed, to take effect at some future time not remote, or that its provisions be so amended as that the roads be required to pay all accrued interest as well as the sinking fund not theretofore paid in. In the same document, the Governor also stated that but three of the delinquent railroads remained unsold, and added: "It will be a gratifying result when the State is entirely divorced from the railroad system.

And, although the sales will not realize all that was desired, and leave a large debt to be provided for, yet the internal improvement system of Tennessee has added millions to her wealth and diffused such energy and enterprise into every class of society, that no intelligent man can regret the policy which inaugurated the system, notwithstanding a large amount of appropriations made since the war have been improperly expended."

That the several railroad companies to whom loans of internal improvement bonds had been made and the State of Tennessee dealt together under the said acts of February 25, 1869, and of January 20, 1870, according to the terms thereof (except as to settlements made prior to the passage of said acts) the various railroad companies who were able to do so, and who were on that account called insolvent, purchasing in the open market, at the market price, bonds of the State of Tennessee, without discrimination as to their description, or on what account, or to whom issued, and in order to raise the means so to do, the said railroad companies issued their own bonds, secured by mortgages on their railroad property as a first lien thereon, or in accordance with the said acts of 1869 and 1870, and the same were sold in the markets of this country and of Europe, to purchasers for value, to the amount of many millions of dollars, now notwithstanding; and that those railroads known as delinquent railroads, the corporations owning which were not able thus to liquidate their indebtedness to the State, were sold by the authority of the State, by virtue of judicial decree, rendered in a proceeding instituted and prosecuted by the State under and according to the provisions of the act of December 20, 1870, a printed copy of the record of which either party is at liberty to file in said causes, and to use as evidence so far as relevant and competent;

and the purchasers thereof paid for the same, as by said act and decree they were authorized to do, in any bonds of the State.

That by virtue of said dealings and transactions, and in consequence thereof, the result, in regard to the reduction of the public debt reached, was as follows: The total bonded debt of the State, including $13,782,000 of funding bonds issued under the acts of 1866, 1868 and 1873, amounting to $49,173,316.66. Of this, $29,251,250.00 represented the amounts of internal improvement bonds loaned to railroad companies, but not including the unpaid interest thereon, embraced in any series of funding bonds. The amount of $28,163,016.66 have, under the various acts aforesaid been surrendered and canceled; and of them $16,265,000 were internal improvement bonds loaned to railroad companies, and $4,326,000 were funding bonds under the acts of 1866 and 1868. The account between the State and the two descriptions of railroads, is as follows:

First. Defaulting railroads sold:

Bond issued	$14,628,000.00
Int. funded, 1866	1,122,306.00
Int. unpaid July, 1870	3,331,163.12
U. S. claims assumed	511,560.00
Total	$19,593,029.12
Amount realized by sale	6,698,000.00
Loss to State	$12,895,029.12

Second. Roads which have settled their indebtedness:

Bonds issued	$12,742,000.00
Int. funded January, 1866	1,850,768.00
Sinking fund paid	493,306.00
Unaccounted for	1,255,700.00

the particulars of which are truly stated in Exhibit No. 5 to the answer of John B. Smith, in the *fourth* of said cases ; that the whole of these transactions, from and including the settlement between the State and the Louisville and Nsshville Railroad Company, beginning in May, 1865, and the whole progress of this legislation, and of the liquidation, arrangements, and settlements authorized and required by it, and of the dealings between the railroad companies and the State, and of the railroad companies in borrowing money on the security of mortgages on their property, on the faith that all prior liens on account of the loans by the State of internal improvement bonds had been thereby removed and discharged, were public and notorious and the holders of Tennessee State bonds, in the year 1870, formed a voluntary organization, represented by a committee, for consultation and co-operation in matters of common interest, and kept themselves well advised of each step in the history of the business ; and on or about May 1, 1870, said bond holders, through their committee, of which J. J. Donaldson, Esq., was chairman, obtained a legal opinion from Hon. Henry E. Davies and Noah Davis, eminent counsel of the City of New York, affirming that they were owners of a lien under the act of 1852, upon each railroad, for the specific payment of the identical bonds issued to that railroad company, by virtue of a contract, protected by the Constitution of the United States ; which opinion was printed in pamphlet form, and not otherwise, and circulated among holders of Tennessee State bonds and others. That said bondholders took no action upon said opinion, and their committees ceased to exist in 1873. That in 1877 a similar organization was formed of Tennessee State bondholders, and has been kept up ever since, and that the present suit, and other similar suits now pending, are prosecuted in the name of the complainants, by a committee of such organization.

That at no time did the said holders of Tennessee State bonds, or any one of them, including the complainant or those associated and acting with him in the prosecution of this and similar suits, ever make any demand upon any railroad company for the payment of any interest on the said bonds, or receive from any railroad company payment of any coupon, or make any objection to any of the acts of the State of Tennessee, inconsistent therewith, or object to the passage thereof, or oppose any payment, settlement, and liquidation, by any railroad company, of its indebtedness to the State, until in May, 1877, at Memphis, in the Circuit Court of the United States, and in April, 1878, at Washington City, in the Supreme Court, it was contended by pleadings and argument, in the case of *Duncan et al.* v. *Merian et al.*, involving the foreclosure of the Mobile and Ohio Railroad, and the marshaling of liens thereon, on behalf of said committee, that the holders of said State bonds were and are entitled to a prior lien, in accordance with the said opinion of said Judges Davies and Davis ; that on the 16th day of January, 1878, there was held, in the City of New York, a meeting of holders of Tennessee State bonds, the call for which was signed by the complainant, and others with whom he was then acting, and with whom he is still associated, and who, jointly with him, are prosecuting this and similar suits—namely, Eugene Kelly, Peter Geddes, John T. Terry, and others—and at which they were present and participating, and at which the following preamble and resolutions were adopted, viz :

" *Whereas*, On the 8th March, 1877, at a meeting between a committee of five members of the Tennessee Legislature (of which Col. John H. Savage was chairman) and a committee of arbitration (of which

George S. Coe was chairman), to whom had been referred the question of a fair and equitable adjustment between the Southern States in default and their bondholders, the debt of the State of Tennessee was fully discussed, with a view of ascertaining and determining what a fair and equitable adjustment of it would be; and,

"*Whereas*, At the conclusion of the conference between the committee of the Tennessee Legislature and the committee of arbiters, the committee made an award that the debt of the State of Tennessee ought to be readjusted by the issue of new bonds, at the rate of sixty per cent. of the total amount of the debt and interest, the new bonds to bear interest at six per cent., payable semi-annually, and the coupons for interest to be made receivable for all taxes and dues to the State; and,

"*Whereas*, The session of the Legislature expired by constitutional limitation a few days after the award of the arbiters was rendered, and there was no time to enact a law to give it effect; and,

"*Whereas*, It was very generally understood that an extra session of the Legislature would be convened to accept a proposition from the bondholders to compromise the State debt, on the terms of the award of the committee of arbitration, and to enact a law to fully carry it out, the holders of a very large amount of bonds of Tennessee did make and send to the governor propositions of compromise on the terms of said award, and the governor did thereafter convene the Legislature in extra session, to consider said proposition; and,

"*Whereas*, During the sitting of the Legislature, the intervention of other parties, proposing and advocating before it other and different terms of settlement than those considered by the committees of the Legislature and the committee of arbitration, and awarded by the latter committee, and agreed to by the bondholders, was prejudicial to the interests of the State of Tennessee, and to her creditors, in so far as it has delayed a settlement; and,

"*Whereas*, The bondholders of Tennessee had neither an agent nor other person to represent them before the Legislature, but confided in the Legislature, and fully expected that the senators and representatives of the people of Tennessee would ratify and confirm the award of the distinguished and disinterested gentlemen who had acted as a committee of arbitration, and accept the proposition of the bondholders made in accordance therewith, unhesitatingly; therefore,

"*Resolved*, That efforts made by any person who purported to represent the bondholders of Tennessee were entirely unauthorized, and that the declaration alleged to have been made at Nashville, that a settlement could be effected with the bondholders upon a lower basis than that proposed by the committee of arbitrators, of which Mr. George S. Coe is chairman, has no foundation in fact, so far as it relates to the great body of bondholders.

"*Resolved*, That while we deplore the attitude assumed by the Legislature, while assembled at Nashville, in December, toward the bondholders, we believe that it resulted from the influence and unwarrantable interference of other parties than real bondholders, or their representatives.

"*Resolved*, That we have an abiding belief that the people of the great State of Tennessee will not, by the rejection of honest claims which they are abundantly able to pay, suffer a stigma long to rest upon them, the effect of which will be to paralyze the prosperity of the State, subvert its best interests, and engender that demoralization which must ultimately result in losses to its citizens, even far greater than to its creditors.

"*Resolved*, That the people of Tennessee be urged to adopt such legislation as will uphold the honor of the State, and evince proper regard for the high integrity which has hitherto characterized her citizens.

"*Resolved*, That a committee of five be appointed, consisting of Eugene Kelly, John T. Terry (of E. D. Morgan & Co.), J. G. K. Duer (of James G. King & Son), Peter Geddes (of Geddes & Smith), and Dr. R. S. Moran—Eugene Kelly to be chairman—to take such action as, in their judgment, may be for the interest of the bondholders; but with the understanding that no settlement less favorable than the award of the committee of arbitration be accepted.

And this respondent says that on the 11th day of December, 1877, the complainant, C. Amory Stevens, had addressed, by telegraph, from New York, to the governor of Tennessee, a communication, which

was laid before the General Assembly, then in session, as follows:

"NEW YORK, *Dec.* 11, 1877.

"GOVERNOR JAMES D. PORTER:

"I am a large holder of Tennessee bonds, which have been held for years strictly for investment account. I was a signer of the former petition, sent you through the committee of arbitration; and while I would prefer to have that proposition accepted, yet, if it would require a revenue bill that is deemed by the legislature to be higher than the State can afford to pay without seriously retarding the prosperity of the people, I prefer to change the original offer, and hereby do change it. I propose to take fifty cents on the dollar. I think this dispatch represents the sentiments of most of the investment holders. They recognize the embarrassed condition of the State, growing out of the war, and are willing to meet the situation in a spirit of liberality, and now ask the legislature, through your excellency, to reciprocate this feeling, and make a settlement without further delay.

"Please submit this to the legislature for its action.

"THE ESTATE OF CALVIN STEVENS,
"C. AMORY STEVENS, *Trustee.*"

That the public debt of the State of Tennessee, which was the subject of these communications and propositions, amounted at that time, as reported to the General Assembly by the Governor, in the same message which transmitted the proposition made through the committee of arbitration, to twenty-three millions two hundred and twelve thousand six hundred and six dollars, on the first day of January, 1878, and which consisted partly of bonds issued under the internal improvement acts of 1851, 1852, and the amendments thereto, and those issued for past due interest, and known as funding bonds, and partly of bonds of the State issued for turnpike, capital, and agricultural bureau purposes, and the purchase of the Hermitage.

That on the 21st day of February, 1868, the legislature of the State of Kentucky passed an act entitled "an act to amend the charter of the Louisville and Nashville Railroad Company," approved March 5, 1850, a true copy of which act is annexed to the answer of John B. Smith in the *first* named of said causes.

That on or about the 1st day of April, 1868, the Louisville and Nashville Railroad Company, in pursuance of the authority conferred by said act, which had been duly accepted by it, executed and delivered by its certain indenture of mortgage of that date, made by and between said company, a duly organized corporation of the State of Kentucky, party of the first part, and James Punnett and Junius B. Alexander, trustees, party of the second part, a true copy of which, except the signatures and acknowledgment, is annexed to the answer of John B. Smith, in the *first* of said causes, as Exhibit No. 4, thereof; that since the execution and delivery thereof, as aforesaid, the said James Punnett, named therein as one of the grantees, has deceased, and this respondent, a citizen of the State of Kentucky, has been duly appointed in his stead, and has accepted said trust, and has been, so far as necessary, acting in execution thereof; that of said eight million loan, authorized and secured by said mortgage, there have been issued and are now outstanding, bonds of said Louisville and Nashville Railroad Company to the amount of seven million and fifty-nine thousand dollars, and, of that amount, two million four hundred and thirty-three thousand dollars were used in the purchase of Tennessee State bonds, for the purpose of paying the State of Tennessee in part the indebtedness claimed to be due from the Memphis and Ohio and the purchase-money of the Memphis, Clarksville and Louisville Railroad Company, and which were so used, in pursuance of the terms and plan, according to which said companies, under the authority of the laws of Kentucky and Tennessee, have become consolidated with or owned by the Louisville and Nashville Railroad Company; that said consolidation and purchase were contemplated, as part of its purposes, by said act of the General Assembly of the Commonwealth of Kentucky, of February 21, 1868, but the same was not consummated until after the passage of said acts of the General Assembly of Tennessee, of 1869-70, heretofore referred to, and that the bonds of said Louisville and Nashville Railroad Company, of said eight million loan, secured by said mortgage,, the proceeds of which were used in the purchase of Tennessee State bonds for the purposes aforesaid, were issued and negotiated in the city of New York during the year 1870, and the Tennessee State bonds, purchased therewith, were bought in New York, in open market, at market prices then current, during the period from January 1, 1870, to May 31, 1871; that said deed of trust and mortgage was executed and has been duly registered in accordance with the laws of Kentucky and Tennessee.

That on or about the 1st day of November, 1873, the Louisville and Nashville Railroad Company, a corporation authorized thereto by the laws of Kentucky and Tennessee, executed and delivered its indenture of mortgage of that date to Henry F. Vail, a citizen of the State of New York, and to said John B. Smith, a true copy of which, except the signatures and acknowledgement, is attached to the answer of John B. Smith in the *first* of said causes as Exhibit No. 5, which mortgage was duly registered in the proper offices in the city of Louis ville, and in the counties in which said railroad lies; that soon after the execution and delivery of this deed of trust or mortgage, the Louisville and Nashville Railroad Company negotiated, issued, and sold, of the bonds thereby secured, two million of dollars, for full value, but less than par, to purchasers thereof; that the said Louisville and Nashville Railroad Company, having purchased and acquired the title to the railroad and other property of the Memphis, Clarksville and Louisville Railroad Company, and the same having become by said purchase a part of its line and property on the 15th day of July, 1872, by a certain indenture of that date made between the said Louisville and Nashville Railroad Company, a corporation created, organized, and existing by and under the laws of the State of Kentucky, and likewise existing and recognized and possessing chartered rights and privileges by and under the laws of the State of Tennessee, party of the first part, and this respondent, of Louisville, in the State of Kentucky, and Junius B. Alexander, of the city of New York, parties of the second part, a true copy of which, except the signatures and acknowledgement thereof, is attached to the answer of John B. Smith, in the *fourth* case above named, as Exhibit No. *one* thereof; that said mortgage or deed of trust was duly executed by the parties thereto, in conformity with the law of the States of Tennessee and Kentucky in that behalf, and was duly registered and recorded as required thereby; that all said twenty-five hundred bonds of two hundred pounds sterling, with coupons attached, as described in said mortgage, were negotiated and sold, and the proceeds thereof received by the Louisville and Nashville Railroad Company, in the city of London, in England, for full value, but less than par, to purchasers thereof.

That there was delivered to the Memphis, Clarksville and Louisville Railroad Company, on account of their railroad, various internal improvement bonds of the State of Tennessee; that said bonds, to the amount of one million five hundred and eighty-two thousand dollars, were received by or on behalf of the Memphis, Clarksville and Louisville Railroad Company, either through its own officers, or by receivers in possession of its railroad, under appointment of the governor of the State, and were by said company, or by said receivers, negotiated and sold, in pursuance of law, to *bona fide* holders, but none prior to March 18, 1858, and the proceeds of said bonds were applied as directed by the laws under which they were issued; that of said sum of one million five hundred and eighty-two thousand dollars of State bonds issued as aforesaid, in aid of the Memphis, Clarksville and Louisville Railroad, the amount of one million and forty-two thousand dollars thereof was issued to said company, in various sums and at different times, between the 17th day of March, 1858, and the 21st day of February, 1861, and all were issued under the provisions of the act of February 11, 1852, and acts amendatory thereof; and that forty thousand dollars of said bonds were issued to said company on March 27, 1866, under the provisions of the act of February 8, 1854, amendatory of said act of February 11, 1852, and four hundred thousand dollars thereof were issued to G. T. Lewis, a receiver in possession of said railroad, by appointment of the governor of the State, between April 14, 1866, and June 13, 1866, as provided in the act of January 18, 1866, to amend said act of February 11, 1852, and one hundred thousand dollars thereof, as authorized by the act of May 24, 1866, to incorporate the Tennessee Pacific Railroad Company, and for other purposes, by the terms of which last mentioned act the governor was authorized to execute a bond for the purchase of railroad machinery, cars, and all other material purchased for the use and benefit of the Memphis, Clarksville and Louisville Railroad from the United States Military Railroad Department at Nashville, of the United States; that the State of Tennessee has failed to pay the interest accruing on its outstanding bonds since the 1st day of July, 1876, having failed to pay the coupons falling due on that day; that the Memphis, Clarksville and Louisville Railroad Company did not pay interest accruing upon its said indebtedness but failed to do so, and to pay the amounts required by the said several laws on account of the sinking fund, and became and was in default by reason thereof, so that it was claimed by the State that on the 1st day of January, 1871, the said Memphis, Clarksville and Louisville Railroad Company was indebted to the State, on account of said interest in arrear, in the sum of eight hundred and seventy-two thousand one hundred and twenty-five dollars and ninety-two cents, besides four hundred and ninety-nine thousand six hundred and sixty-nine dollars and ninety cents, on account of the purchase of machinery, cars and material from the United States, authorized as aforesaid by the act of May 24, 1866, making the aggregate of indebtedness, claimed by the State, of that date, for which said company was liable to it, of two million nine hundred and fifty-three thousand seven hundred and ninety-five dollars and ninety-two cents.

That the bonds authorized by the act of the General Assembly of the State of Tennessee, passed February 1, 1860, and called second mortgage bonds, were issued by said company, and negotiated; that they are the same referred to in the mortgage of the Louisville and Nashville Railroad Company, to the said John B. Smith, and the said Junius B. Alexander, of the 15th day of July, 1872, as having been purchased by the Louisville and Nashville Railroad Company, and by it conveyed to them.

That on the 1st day of June, 1871, the Memphis and Ohio Railroad Company, party of the first part, executed and delivered its certain deed of indenture of that date, to and with John B. Smith, of Louisville, in the State of Kentucky, and James W. Alexander, of the City and State of New York, parties of the second part, a true copy of which is attached to the answer of John B. Smith in the case of the complainant suing upon bonds of the State of Tennessee, issued in aid of the construction of the Memphis and Ohio Railroad, which deed, it is admitted, was duly registered according to the laws of the State of Tennessee; that said thirty-five hundred bonds, described in and secured by said deed and mortgage, were duly issued by said railroad company, negotiated and sold to *bona fide* purchasers, for full value, but at less than par, and that the proceeds of the sale of the said bonds, which were indorsed before negotiation by the Louisville and Nashville Railroad Company, were used to replace advances made by the said company for the Memphis and Ohio Railroad Company, and for the purchase of bonds of the State of Tennessee, which the State of Tennessee received in discharge of the indebtedness claimed to be due from said railroad company to it; and, afterward, the Memphis and Ohio Railroad Company was consolidated with the Louisville and Nashville Railroad Company, and the said mortgaged property became vested in the Louisville and Nashville Railroad Company, and that payments of interest accruing on the indebtedness of the Memphis and Ohio Railroad Company claimed to be due to the State of Tennessee, were regularly made by said Louisville and Nashville Railroad Company, then in possession of the Memphis and Ohio Railroad, as lessee thereof, to the State of Tennessee every six months from July, 1867, to July, 1871, each of which semi-annual payments amounted to $71,883.30, and were made partly in cash, and partly in past due bonds and coupons of the State of Tennessee.

That, on the 1st day of July, 1870, the Nashville and Decatur Railroad Company entered into an indenture with Philo C. Calhoun, Richard T. Wilson and Adrian Iselin, then and now citizens of the State of New York, parties of the second part, a true copy of which is filed as "Exhibit No. 2" to the answer of Charles Diggelman and others, in the case of the complainant suing upon bonds of the State of Tennessee, issued in aid of the construction of the Tennessee and Alabama Railroad, which indenture was duly registered in pursuance of the laws of the State of Tennessee; that the Nashville and Decatur Railroad Company is a corporation of the States of Tennessee and Alabama, formed by the consolidation of the Tennessee and Alabama Railroad Company, the Central Southern Railroad Company, and the Tennessee and Alabama Central Railroad Company; that the bonds of the Nashville and Decatur Railroad Company, secured by the said mortgage to said Calhoun, Wilson and Iselin, were issued for the purposes therein authorized, and were negotiated and sold in the City of New York, to *bona fide* purchasers, for full value, but at less than par, and the proceeds thereof used for the purchase of bonds and coupons of the State of Tennessee, bought in open public market in said city, at the prevailing market rates, and which were afterward delivered to and accepted by the State of Tennessee, at par, through its Comptroller, in payment of and satisfaction for the debt claimed to be due the State from the said companies, on account of said internal improvement bonds originally loaned to them; that the respondents, Charles Diggelman, Marius A. Sorchan and Sophie Milius von Willer, purchased and held the amount of bonds stated in their answer, respectively, in good faith and for full value, but at less than par; and that the several respondents, whose names are in the list, marked "Exhibit No. 1," attached to the said answer, each purchased and still holds of said bonds the several amounts set opposite their respective names in said list, in good faith and for full value, but at less than par; a true copy of one of said bonds is set out in "Exhibit No. 2" to said answer. That the Nashville and Decatur Railroad Company made a settlement with the State of Tennessee, through its Comptroller, of its debt claimed to be due to said State on account of the bonds of said State issued in aid of the construction of the Tennessee and Alabama and the Central Southern Railroad, and the interest thereon, as made up and adjusted to January 1, 1871, in the sum of $2,702,997.10, as is shown by "Exhibit No. 3" to said answer, which is a correct copy of the original, which was paid in bonds and coupons which had been purchased at less than par.

"Exhibit No. 4," attached to the answer, is a true copy of the lease of the Nashville and Decatur Railroad Company to the Louisville and Nashville Railroad Company.

GEORGE HOADLY,
On behalf of Complainants.
STANLEY MATTHEWS,
On behalf of John B. Smith, Charles Diggelman, and others, Defendants.

That the use of the words "*bona fide*" and in good faith, on pages 5, 21, 23 and 24, shall not preclude the complainant from establishing by proof that the holders of the substitution bonds had notice of the rights of the State bondholders, as now claimed by the complainant, when they respectively acquired their interests in the said substitution bonds.

114-662

Vol. 3.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~[illegible]~~ ~~357~~ 46

CALVIN AMORY STEVENS AND JOHN T. TERRY
Appellants,

vs.

THE NASHVILLE AND NORTH WESTERN RAILROAD COMPANY AND THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF TENNESSEE.

X

FILED OCTOBER 8, 1881.

STATE OF TENNESSEE,
Davidson County.

I, JNO. C. FERRISS, [illegible]CUIT COURT
ourt of said Coun
MIDDLE DISTRICT OF TENNESSEE.

In Equity.

CALVIN AMORY STEVENS
vs.
THE LOUISVILLE, NASHVILLE & GREAT SOUTHERN R. R. CO.

No. 2462.

The replicant saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith, that he will aver and prove his said bill to be true, certain and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto by this repliant, without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true—all which matters and things this repliant is and will be ready to aver and prove as this honorable Court shall direct; and humbly prays, as in and by his said bill he hath already prayed.

S. WATSON,
Solicitor.

LOUISVILLE AND
COMP

$150,000 from 9,320 to 9,451.

Received, Nashville, July 5, 18 ris, Governor of the State of Tenne ndred and fifty coupon bonds of the State of Tennessee, for one thousand dollars each, principal and interest, payable in New York, the bonds falling due the 1st day of January, 1898, first coupon falling due 1st day of January, 1860; said bonds are numbered from 9,302 to 9,451, both numbers included. Said bonds are issued to the Louisville and Nashville Railroad Company to iron and equip the last section of fifteen miles of said road in this State.

JOHN L. HELM,
Pres't and Agent of the L. & N. R. R. Co.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by John L. Helm, President and agent of the L. & N. R. R. Co., for bonds of the State of Tennessee, issued to said Company and numbered from 9,302 to 9,451, inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 18th day of July, A. D., 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County.

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify that Charles N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State of the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office,
in Nashville, this 18th day of
July, 1879.

JOHN C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that John C. Ferriss, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole presiding Judge of the County Court of said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witnes, my hand and the seal of said Court,
at office, this 18th day of July, 1879.

J. R. McCANN,
Clerk.

LOUISVILLE AND NASHVILLE RAILROAD CO.

$150,000.

Received, Nashville, April 30, 1858, from Isham G. Harris, Governor of the State of Tennessee, one hundred and fifty coupon bonds of said State, for one thousand dollars each, first coupon falling due 1st July, 1858, bonds falling due 1st January, 1892, principal and interest payable in New York. Nos. of said bonds from 6,574 to 6,673 and from 6,270 to 6,319, all these numbers inclusive.

These bonds are issued to the Louisville and Nashville Railroad, on the first section of thirty miles of said road, commencing at Nashville, in pursuance of the General Internal Improvement Act of 1853-4, and an amendment passed at the Session of 1857-8, said bonds are a part of 300 bonds granted on their first application.

JOHN L. HELM,
President and Agent of Louisville and Nashville R. R. Co.

I, C. N. Gibbs, Secretary of State of the State of the State of Tennessee, do certify that the foregoing is a copy of receipt given by John L. Helm, President and Agent of the Louisville and Nashville R. R. Co., for bonds of the State of Tennessee, issued to said Company, numbered from 6,270 to 6,319, both numbers inclusive, the original of which is now of record in my office.

In testimony of which, I have hereunto subscribed my official signature, and by order of the Governor affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 18th day of July, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County.

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand at office
in Nashville, this 18th day
of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court, at
office, this 18th day of July, 1879.

J. R. McCANN,
Clerk.

LOUISVILLE & NASHVILLE RAILROAD CO.

$150,000 from 6,424 to 6,573.

Received Nashville April 30th, 1858, from Isham G. Harris, Governor of the State of Tennessee, one hundred and fifty bonds of said State for one thousand dollars each, first coupon falling due 1st July, 1858, bonds falling due 1 Jan'y, 1892, principal and interest payable in New York, Nos. of bonds from 6,424 to 6,573, both these numbers inclusive.

Said bonds are issued to the Louisville and Nashville Railroad Company on their first section of thirty miles of said road commencing at Nashville, in pursuance of the General Internal Improvement act of 1853 and 4, and acts amendatory thereto.

JOHN L. HELM,
President and Agent of Louisville & Nashville R. R. Co.

I, C. N. Gibbs, Secretary of State of the State of Tennessee do certify that the foregoing is a copy of a receipt given by John L. Helm, Pres. and Agent of the Louisville and Nashville Railroad Company for bonds of the State of Tennessee issued to said company and numbered from 6,424 to 6,573, both numbers inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State of Tennessee at the Department in the City of Nashville this 18th day of July, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County.

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same, Secretary of State for the State of Tennessee duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand at office, in Nashville,
this 18th day of July, 1879.
JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that John C. Ferriss, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court, at
my office, this 18th day of July, 1879.
J. R. MCCANN,
Clerk.

U. S. CIRCUIT COURT,

FOR THE MIDDLE DISTRICT OF TENNESSEE.

In Equity. No. 2458.

Calvin Amory Stevens
vs.
The Nashville and Decatur R. R. Co. *et al.*

Replication.

The repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, saith, that he will aver and prove his said bill to be true, certain and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable Court shall direct; and humbly prays, as in and by his said bill he hath already prayed.

S. WATSON,
Solicitor.

Received of Isham G. Harris, Governor of the State of Tennessee, (50) fifty coupon bonds, commencing at No. 6220 and running to 6269, both these numbers inclusive, dated first of January, 1858, first coupon falling due first of July, 1858; bonds falling due first January, 1892, principal and interest payable in the City of New York.

Said bonds were issued in pursuance of an act passed March 15, 1858, directing the Governor to issue to the Tennessee and Alabama Railroad Company coupon bonds of the State of Tennessee in lieu of bonds of said company, endorsed by the State of Tennessee. These bonds are instead of bonds, the No. and date of which are set forth on opposite pages.

JNO. MARSHALL,
President T. and A. R. R. Co.

April 28, 1858.
50 State Bonds.

I, C. N. GIBBS, Secretary of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by John Marshall, President of T. and A. R. R. Co., for bonds of the State of Tennessee issued to said company, numbered from 6220 to 6229, both numbers inclusive, the original of which is now of record in my office.

In testimony whereof, I havs hereunto subscribed my official signature, and, by order of the Governor, affixed the great seal of the State of Tennessee, at the Department, in the City of Nashville, this 18th day of July, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. }

I, JOHN C. FERRIS, sole presiding Judge of the County Court of said County, do hereby certify that Charles N. Gibbs, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same Secretary of State for the State of Tennessee, duly elected and qualified as such, and that his attestation is in due form of law and by the proper officer.

Given under my hand at office, in Nashville, this 18th day of July, 1879.

JNO. C. FERRIS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I, J. R. McCANN, Clerk of the County Court of said county, do hereby certify that John C. Ferriss, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same the sole presiding judge of the County Court, in and for said county, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court at office, this 18th day of July, 1879.

J. R. McCANN,
Clerk.

TENNESSEE AND ALABAMA RAILROAD COMPANY.

$200,000.

Received of Andrew Johnson, Governor of the State of Tennessee two hundred coupon bonds of said State for one thousand dollars each drawing six per cent. interest, numbered from No. 916 to 1115 inclusive, dated the 1st day of January, 1854, and falling due on the 1st day of January, 1892, being a part of the first issue being 300 bonds to said company under the general internal improvement Act passed on the 11th of Feb'y, 1852, and the Act amendatory thereof passed on the 8th Feb'y, 1854, the first coupon on said bonds falling due on the 1st January, 1855.

Nashville, July 4th, 1854.

JOHN S. CLAYBROOKE,
Agent of said T. & A. R. R. Co.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by John S. Claybrooke, agent of said T. & A. R. R. Co. for Bonds of the State of Tennessee, issued to said Company, numbered from 916 to 1115 inclusive, the original of which is now of record in my office.

[L.S.] In testimony whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 18th day of July, A.D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. }

I, John C. Ferriss, sole presiding Judge of the County Court of said county, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of of signing the same Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

Given under my hand at office in Nashville this 18th day of July, 1879.

JOHN C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I. J. R. McCANN, Clerk of the County Court of said County, do hereby certify, that John C. Ferriss, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court at office, this 18th day of July, 1879.

J. R. McCANN,
Clerk.

TENNESSEE AND ALABAMA R. R. CO.

$43,000.

Received, Nashville, August 27th, 1858, of Isham G. Harris, Governor of the State of Tennessee, forty-three coupon bonds of the State of Tennessee, for one thousand dollars each, principal and interest payable in New York. Said bonds falling due on the 1st day of January, 1898, first coupon falling due on 1st day of January, 1859. Said bonds are issued to said company as the last installment of the State aid for the purchase of iron and equipment for said road, issued under the Act of 1857-8, ch. 130. Said bonds are numbered from 8,112 to 8,154, inclusive.

JNO. MARSHALL,
Agent of the Tennessee and Alabama Railroad Co.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by Jno. Marshall, agent of the Tennessee and Alabama Railroad Company, for bonds of the State of Tennessee, issued to said company, numbered from 8,112 to 8,154, inclusive, the original of which is now recorded in my office.

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department, in the city of Nashville, this 18th day of July, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. }

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said county, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand at office in Nashville, this 8th day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court at Office, this 18th day of July, 1879.

J. R. McCANN,
Clerk.

TENNESSEE AND ALABAMA RAILROAD CO.

Received, Nashville, June 4th, 1858, from Isham G. Harris, Governor of the State of Tennessee, two hundred and thirty-two coupon bonds of said State, each for one thousand dollars, principal and interest payable in New York, said bonds falling due the 1st day of January 1892, and first coupon falling due 1st day of July, 1858. Nos. of said bonds from No. 6,849 to 7,080 both numbers inclusive, the said bonds issued on account of iron and equipment.

$232,000 from 6,849 to 7,080

JNO. MARSHALL,
Agent for the Tennessee and Alabama Railroad Company.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by Jno. Marshall, Agent for the Tennessee and Alabama Railroad Company, for Bonds of the State of Tennessee issued to said company, numbered from 6,849 to 7,080, inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature and by order of the Governor affixed the Great Seal of the State of Tennessee at the Department in the City of Nashville, this 18th day of July, A. D., 1879.

CHAS. N. GIBBS,
Secretary of State.

State of Tennessee,
Davidson County.

I, **Jno. C. Ferriss**, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appear to the foregoing certificate is now, and was at the time of signing the same Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law and by the proper officer.

Given under my hand, at office in Nashville,
this 18th day of July, 1879.
JNO. C. FERRISS,
County Judge.

State of Tennessee,
Davidson County.

I, **J. R. McCann**, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same, sole presiding judge of the County Court, in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court, at
office, this 18th day of July, 1879.
J. R. McCANN,
Clerk.

TENNESSEE & ALABAMA RAILROAD CO.

Received, Nashville, January 16, 1858, from Isham G. Harris, Governor of the State of Tennessee, seventeen coupon bonds of said State, each for one thousand dollars, principal and interest payable in New York, bonds falling due on the 1st day of January, 1892, first coupon falling due on the first day of July, 1858;

$17,000
from
5,971 to
5,987.

numbers of said bonds from No. 5,971 to No. 5,987, both numbers included.

These bonds are issued to the Tennessee and Alabama Railroad Company to aid in the construction of bridge across Duck river in accordance with an Act passed February 26, 1856, entitled an Act to amend an Act to charter the Southwestern Railroad Co., and for other purposes, passed Jany. 31, 1852, this being the first application for bridge aid.

FRANK HARDEMAN,
Agent T. & A. R. R. Co.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by Frank Hardeman, agent of the T. & A. R. R. Co., for bonds of the State of Tennessee issued to said company, numbered from 5,971 to 5,987, inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and by order of the Governor affixed the great seal of the State of Tennessee at the Department in the city of Nashville, this 18th day of July, A. D. 1879.

CHAS. N. GIBBS.

State of Tennessee,
Davidson County.

I, Jno. C. Ferriss, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that such attestation is in due form of law and by the proper officer.

Given under my hand at office in Nashville,
this 18th day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court
at office this 18th day of July, 1879.

J. R. McCANN,
Clerk.

Received, of Isham G. Harris, Governor of the State of Tennessee, one hundred and four coupon bonds commencing at No. 6320 and running to No. 6,423, both these numbers inclusive, sealed first of January, 1858, first coupon falling due on the 1st of July, 1858, bonds falling due on the 1st of January, 1892, principal and interest payable in the City of New York, said bonds are issued in pursuance of an act passed March 15th, 1858, directing the Governor to issue to the Tennessee and Alabama Railroad Company coupon bonds of the State of Tennessee in lieu of bonds of said company endorsed by the State of Tennessee, these bonds are instead of bonds the Nos. and date of which are set forth on opposite page.

JNO. MARSHALL,
Prest. T. and A. R. R. Co.

May 3d, 1858,
104 State Bonds.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a eceipt given by Jno. Marshall, Prest. of the T. & A. R. R. Co., for Bonds of the State of Tennessee issued to said company, numbered from 6 20 to 6423 inclusive.

In testimony whereof, I have hereunto subscribed my official signature, and by order of the Governor, affixed the Great Seal of the State of Tennesse at the Department in the City of Nashville, this 18th day of July A. D., 1879.

CHAS. N. GIBBS,
Secretary of State.

State of Tennessee, }
Davidson County. }

I, Jno. C. Ferriss, sole presiding judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such and that said attestation is in due form of law and by the proper officer.

Given under my hand at office in Nashville, this 18th day of July, 1879.

JNO. C. FERRISS,
County Judge.

State of Tennessee, }
Davidson County. }

I, J. R. McCann, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate is now and was at the time of signing the same, sole presiding Judge of the County Court in and for said

County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness, my hand and seal of said Court, at office, this 18th day of July, 1879.

J. R. McCANN,
Clerk.

U. S. CIRCUIT COURT.

In Equity. No. 2,464.

FOR THE MIDDLE DISTRICT OF TENNESSEE.

Calvin Amory Stevens,
vs.
The Nashville and Decatur R. R. Co. and others.
} Replication.

The replicant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, saith, that he will aver and prove his said bill to be true, certain and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things, this repliant is and will be ready to aver and prove as this honorable Court shall direct; and humbly prays, as in and by his said bill he hath already prayed.

S. WATSON,
Solicitor.

CENTRAL SOUTHERN RAILROAD COMPAN

$171 from 7,907 to 8,079.

Received, Nashville, August 25th, 1858, of Isham G. Harris, Governor of the State of Tennessee, one hundred and seventy-one coupon bonds of the State of Tennessee, each for one thousand dollars, principal and interest, payable in New York; said bonds falling due on the 1st day of January, 1898, first coupon falling due on 1st day of January, 1859. Said bonds are numbered from 7,909 to 8,079, both numbers inclusive. Said bonds are issued to said company for the purchase of iron equipments, &c., on the first section of 33 27-100 miles from Columbia to Pulaski, at the rate of nine thousand dollars per mile, under the General Internal Improvement laws, as amended by the act of 1857–8.

THOMAS BUFORD,
Agent Central Southern R. R. Co.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a receipt given by Thos. S. Buford, agent of the Central Southern R.R. Co., for bonds of the State of Tennessee, issued to said company, and numbered from 7,909 to 8,079, both numbers inclusive, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the great seal of the State of Tennessee, at the Department, in the city of Nashville, this 18th day of July, 1879.

CHAS. N. GIBBS.

State of Tennessee,
Davidson County.

I, Jno. C. Ferriss, sole presiding Judge of the County Court of said County, do hereby certify that

Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand, at office, at Nashville,
this 18th day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole presiding Judge of the County Court, in and for said County, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court, at
office, this 18th day of July, 1879.

J. R. McCANN,
Clerk.

CHAPTER 51.

AN ACT

To establish a system of Internal Improvements, in this State.

SEC. 1. Be it enacted by the General Assembly of the State of Tennessee, that whenever the East Tennessee and Virginia Railroad Company, shall have procured bona-fide subscriptions for the capital stock, in said company, to an amount sufficient to grade, bridge and prepare for the iron rails, the whole extent of the main trunk line proposed to be constructed by said company, and it shall be shown by said company to the Governor of the State, that said subscriptions are good and solvent, and whenever said company shall have graded, bridged and shall have ready to put down the necessary timbers for the reception of rails, and fully prepared a section of thirty miles of said road at either terminus, in a good and substantial manner, with good materials, for putting on the iron rails and equipments, and the Governor shall be notified of these facts, and that said section or any part thereof, is not subject to any lien whatever, other than those created in favor of the State, by the acts of 1851-2, by the written affidavits of the chief-engineers and President, of said company, together with the written affidavits of a competent engineer, by him appointed, at the cost of the company, to examine said section, then said Governor shall issue to said company, coupon bonds of the State of Tennessee, to an amount not exceeding eight thousand dollars per mile on said section, and on no other condition, which bonds shall be payable at such place in the United States, as the President of the company may designate, bearing an interest of six per centum per annum, payable semi-annually, and not having more than forty, nor less than thirty years to mature.

Sec. 2. Be it enacted, That the bonds before specified, shall not be used by said company for any other purpose, than for procuring the iron rails, chairs, spikes and equipments for said section of said road, and for putting down said iron rails, and the Governor shall not issue the same, unless upon the affidavit of said President, and a resolution of a majority of the board of directors for the time being, that said bonds shall not be used for any other purpose, than for procuring the said iron rails, chairs, spikes and equipments, for said section, and for putting down said iron rails, and the Governor shall have power to appoint a commissioner, to act under oath, in conjunction with said President, in negotiating said bonds for the purposes aforesaid, and to act in any other matters pertaining to said company, where the interest of the State in the opinion of the Governor may require it.

Sec. 3. Be it enacted, That so soon as the bonds of the State shall have been issued for the first section of the road as aforesaid, they shall constitute a lien upon said section so prepared as aforesaid, including the road bed, right of way, grading, bridges and masonry, upon all the stock subscribed for in said company, and upon said iron rails, chairs, spikes and equipments when purchased and delivered, and the State of Tennessee, upon the issuance of said bonds, and by virtue of the same, shall be invested with said lien or mortage, without a deed from the company, for the payment by said company of said bonds, with the interest thereon, as the same becomes due.

Sec. 4. Be it enacted, That when said company shall

have prepared as aforesaid a second section, or any additional 9
number of sections of twenty miles each of
said road, connecting with a section already completed,
for the iron rails, chairs, spikes and equipments, as
provided in the first section of this act, and the Governor
shall be notified of the facts as before, provided,
he shall in like manner issue to said company, like
bonds of the State of Tennessee, to an equal amount
with that before issued under the first section of this act,
for each and every section of twenty miles of said road,
so prepared as aforesaid, but upon the terms and conditions 10
hereinbefore provided, and upon the issuance
of the said bonds, the State of Tennessee shall be invested
with a like mortgage or lien, without a deed
from said company, upon said stock, and upon
said first and additional section or sections of said
road so prepared, upon the rails and equipments
put or to be put upon the same, for the payment
of said bonds and the accruing interest thereon.
Provided that if the last section of said road, shall
be less than twenty miles, or if the railroad proposed to 11
be constructed by any company hereinafter specified,
shall be less than thirty miles in extent, bonds of the
State shall be issued for such section, or such railroad
as may be less than thirty miles in extent, for an
amount in proportion to the distance as provided in
this act, but upon the same terms and conditions in all
respects, as required in regard to the bonds to be
issued for the other sections of said road: And when
the whole of said road shall be completed, the State of
Tennessee shall be invested with a lien, without a deed 12
from the company, upon the entire road, including the
stock, right of way, grading, bridges, masonry, iron
rails, spikes, chairs and the whole superstructure and
equipments, and all the property owned by the company
as incident to, or necessary for its business; and all
depots and depot stations, for the payment of all of said
bonds issued to the company as provided in this act,
and for the interest accruing on said bonds.

13 And after the Governor shall have issued bonds
for the first section of the road, it shall not
be lawful for said company to give, create or
convey to any person or persons or body corporate
whatever any lien or incumbrance or mortgage of
any kind, which shall have priority over or come in
conflict with the lien of the State herein secured,
and any such lien, incumbrance, or mortgage shall
be null and void as against said lien or mortgage
of the State, and the said lien or mortgage of the State,
14 shall have priority over all other claims, existing or to
exist against said company.

Sec. 5. Be it enacted, That it shall be the duty of
said company to deposit in the Bank of Tennessee, at
Nashville, at least fifteen days before the interest becomes due, from time to time, upon said bonds issued
as aforesaid, an amount sufficient to pay such interest,
including exchange and necessary commissions, or satisfactory evidence that said interest has been paid or
15 provided for, and if said company fail to deposit said
interest as aforesaid, or furnish the evidence aforesaid,
it shall be the duty of the Comptroller, to report that
fact to the Governor, and the Governor shall immediately appoint some suitable person or persons, at the
expense of the company, to take possession and control of said railroad, and all the assets thereof, and manage the same, and receive the rents, issues, profits and
dividends thereof, whose duty it shall be to give bond
and security to the State of Tennessee, in such penalty
16 as the Governor may require, for the faithful discharge
of his or their duty, as receiver or receivers—to receive
said rents, issues, profits and dividends, and pay over
the same under the direction of the Governor towards
the liquidation of such unpaid interest.

And if said company fail or refuse to deliver up said
road to the person or persons so appointed by the Governor, the said persons so appointed, shall report that
fact, to the Governor, who shall forthwith issue his war-

rant, directed to the Sheriffs of the Counties through which said Road shall run, commanding them, to take possession of said Road, fixtures and equipments, and every thing pertaining thereto, and place the said Receiver in full and complete possession of the same, and said receiver so appointed, shall continue in the possession of said road, fixtures and equipments, and run the same, and manage the entire road, until a sufficient sum shall be realized, exclusive of the costs and expenses incident to said proceedings, to pay off and discharge the interest as aforesaid due on said Bonds, which being done, the receiver shall surrender said Road, and fixtures, and equipments, to said company. The comptroller shall from time to time, settle the accounts with the receiver, and the balance shall be deposited in the Treasury of this State. The comptroller is authorized, and it is made his duty, upon his warrant to draw from the Treasury, any sum of money necessary to meet the interest on such bonds as may not be provided for by the company, as provided for in this act, and the comptroller shall report thereof to the General Assembly, from time to time.

Sec. 6. Be it enacted, That if said company shall fail or refuse to pay any of said Bonds, when they fall due, it shall be the duty of the Governor, to notify the Attorney General of the district in which is situated the place of business of said company, of the fact, and thereupon said Attorney General, shall forthwith file a bill against said company, in the name of the State of Tennessee, in the Chancery or Circuit Court of the county in which is situated said place of business, setting forth the facts, and thereupon said Court shall make all such orders and decrees, in said cause as may be deemed necessary by the Court, to secure the payment of said bonds, with the interest thereon, and to indemnify the State of Tennessee against any loss, on account of the issuance of said bonds, by ordering the said Railroad to be placed in the hands of a receiver, ordering the sale of said Road and all the property and assets attached thereto, or belonging to said company, or in such other manner as the Court may deem best for the interest of the State.

SEC. 7. Be it enacted, That at end of five years after completion of said Road, said company shall set apart one per centum per annum, upon the amount of Bonds issued to the company, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the company shall pay into the Treasury of the State, after assigning them to the Governor and for which the Governor shall give said company a receipt, and as between the State, and said company, the bonds so paid in, shall be a credit on the bonds issued to the company. And bonds so paid in, and the interest accruing thereon from time to time, shall be held and used by the State as a sinking fund, for the payment of the bonds issued to the company, and should said company repurchase any of the bonds issued to it, under the provisions of this act, they shall be a credit as aforesaid, and cancelled. And should said company fail to comply with the provisions of this section, it shall be proceeded against, as provided in the fifth section of this act.

SEC. 8. Be it enacted, That the President of the company shall make semi-annual reports under oath, to the Governor, until the completion of said Road, setting forth fully the condition of the road, and the company, and after its completion he shall report to the Governor annually, showing the financial condition of the company, giving a statement of the trade and travel upon the Road, the receipts and expenditures, nett earnings and dividends, and what per cent. is paid on the stock to the stockholders. And said reports shall be consolidated every two years by the President of said company, and said consolidated reports, shall be laid before the Governor by the first of September every two years after the completion of the road and the Governor shall lay said report before the Legislature for its action, at the next meeting thereof after said report is made.

Sec. 9. Be it enacted, That it shall not be lawful for any officer of said company, to engage in any speculation or dealing either directly or indirectly, in any real estate on or along the line, at any of the depots or depot stations, or at either terminus of said road, until after the road is completed, and every officer of the company, before entering upon the duties of his office, shall take an oath in writing before any Judge or Justice of the Peace in this State, that he will not knowingly violate the provisions of this act, and that he will faithfully perform the duties of his office, and if any such officer of the company, or other person taking an oath as herein provided, knowingly swear falsely, he shall be deemed guilty of perjury, and subject to all the pains and penalties thereof, and every affidavit required under this act, may be sworn to before any Judge or Justice of the Peace in this State.

Sec. 10. Be it enacted, That the provisions of this act shall extend to and embrace, the Chattanooga, Harrison, Georgetown and Charleston Railroad Company, the Nashville and Northwestern Railroad Company, the Louisville and Nashville Railroad Company, the Southwestern Railroad Company, the McMinnville and Manchester Railroad Company, the Memphis and Charleston Railroad Company, the Nashville and Southern Railroad Company, the Mobile and Ohio Railroad Company, the Nashville and Memphis Railroad Company, the Nashville and Cincinnati Railroad Company, the East Tennessee and Georgia Railroad Company, the Memphis, Clarksville and Louisville Railroad Company, and the Winchester and Alabama Railroad Company, so far as the main trunk Roads, to be constructed by said companies, lie within the limits

29 of this State, and not otherwise, and said companies
shall all the powers and privileges, and be subject to all
the restrictions and liabilities contained in this act.
Provided that this act shall not extend to or embrace,
more of the road proposed to be built by the Memphis,
Clarksville and Louisville Railroad Company, than that
part which lies between the Kentucky line, and the
Nashville and Northwestern Railroad, or the Nashville
and Memphis Railroad.

30 *And provided further* that this act shall not extend
to or embrace the East Tennessee and Georgia Railroad
Company, unless said company shall extend their Road
so as to form a junction with the East Tennessee and
Virginia Railroad at Knoxville, and in the event said
company fail or refuse so to extend their said railroad
to make said junction, then all the rights, powers and
privileges with the restrictions and liabilities of this
act, shall extend to any company that may be hereafter
chartered for the purpose of building a Railroad to
31 make said connection, and in no event, shall the provisions
of this act extend to or embrace, more of the
East Tennessee and Georgia Railroad, than that part
which lies between Blairs Ferry and the city of Knoxville.
And provided, that any lien now existing on
the East Tennessee and Georgia Railroad, shall not prevent
the issuance of bonds for its benefit as herein
provided, but the affidavits required in the first section
of this act, shall be deemed sufficient as applicable to
said company, if it is stated in said affidavits, that no
32 lien has been created on said road, since the passage of
this act.

Sec. 11. Be it enacted, That the guage of all said Railroads, (unless connecting with roads in other States of a different guage) shall be the same as that of the Nashville and Chattanooga Railroad, and not otherwise—and the Iron Rails to be put upon said Road, shall not be less than eighty tons to the mile, if the W

Rail is used, and not less than one hundred tons to the 33
mile, if the T Rail is used.

Sec. 12. Be it enacted, That the State of Tennessee expressly reserves the right to enact by the Legislature thereof hereafter, all such laws as may be deemed necessary, to protect the interest of the State, and to secure the State against any loss, in consequence of the issuance of bonds, under the provisions of this act. But in such manner as not to impair the vested rights, of the stockholders of the companies. 34

Sec. 13. Be it enacted, That it shall be the duty of the Governor, from time to time, when there shall be reliable information given to him, that any Railroad company, shall have fraudulently obtained the issuance of the bonds of the State, or shall have obtained any of said Bonds contrary to the provisions of this act, he shall notify the Attorney General of this State, whose duty it shall be forthwith to institute, in the name of the State, a suit in the Circuit or Chancery Court, of the 35
County of the place of business of the company, setting forth the facts. And when the fact shall satisfactorily appear to the Court, that any of said bonds shall have been fraudulently obtained, or obtained contrary to the true intent, meaning and provisions of this act, then and in such case, the Court shall order, adjudge and decree, that said Road lying in the State, with all the property and assets of said company, or a sufficiency thereof, shall be sold, and the proceeds shall be paid into the Treasury, and it shall be the duty of the 36
Comptroller immediately to vest the same in stocks, creating a sinking fund, as provided for in the 7th section of this act, and said company shall forfeit all rights and privileges under the provisions of this act. And the stockholders thereof shall be individually liable, for the payment of the bonds so fraudulently obtained by such company, and for all other losses, that may fall upon the State, in consequence of the

37 commission of any other fraud by such company, excepting such stockholders, as may show to the said Court, that they were ignorant of, or opposed the perpetration of such frauds by the company.

SEC. 14. Be it enacted, That in the event any of the Roads, fixtures or property belonging to any of said Roads shall be sold under the provisions of this act, it shall be the duty of the Governor, to appoint an agent for the State, who shall attend said sale, and pro-
38 tect the interest of the State, and shall if necessary, to protect said interest, buy in in said road or property in the name of the State, and in case said agent shall purchase said road for the State, the Governor shall appoint a Receiver, who shall take possession of said road and property, and use the same, as provided for in the 5th section of this act, and said Receiver shall settle with the Comptroller semi-annually, until the next meeting of the General Assembly.

39 SEC. 15. Be it enacted, That this act shall be deemed and taken to be a public act; as to all purposes of notices. *Provided* that should any of the companies hereinbefore mentioned, have *bona fide*, and before the passage of this act, purchased or otherwise contracted for, upon their own credit, the necessary iron, rails, spikes, equipments, &c., for their road or roads, or any section or sections thereof, the bonds of the State shall be issued to such company or companies as hereinbefore prescribed, *provided further*, that no company
40 shall receive more than the amount per mile, hereinbefore prescribed, *and provided*, that the provisions of this act shall only extend to, one of the lines of railroad proposed to be constructed, by the Nashville and Northwestern Railroad Company, and the Nashville and Memphis Railroad Company, between Nashville and the Tennessee river, and the company first obtaining bona fide subscriptions, as provided in the first section of this act, made known to the Governor as therein pre-

scribed, shall be entitled to the provisions of this act, for the whole distance from Nashville to its terminus on the Mississippi river, and may cross the Tennessee river at any point, between Ross' Ferry and a point one mile below White Oak Island, and the other company shall have power to connect their road, with the one thus entitling itself to the provisions of this act for its whole distance, at any point they may select, and shall only be entitled to the provisions of this act, from the point of connection, to its terminus on the Mississippi river, *Provided also*, that if the Louisville and Nashville Railroad Company, locate their road through Sumner County, by way of Gallatin, then the provisions of this act shall not extend to or embrace, the Nashville and Cincinnati Railroad Company, and the charter granted to said last named company shall in that event, be void: But should said road not be so located, and both companies desire to run their roads to Nashville, then the provisions of this act shall extend to the company first obtaining *bona fide* subscriptions, as provided in the first section of this act, made known to the Governor as therein prescribed, and the other company shall unite their road, to the one so provided for, at some suitable point, at least two miles north of Nashville, and the provisions of this act shall extend to said road, only from the point of connection to the Kentucky State line, Provided further that the bonds of the State shall not issue to the Louisville and Nashville Railroad Company, or to the Nashville and Cincinnati Railroad Company, as provided in this act, unless one of said companies shall agree to locate and extend its road, across Cumberlan river, at or convenient to Nashville or South Nashville, within ten years from the date of the passage of this act.

SEC. 16. Be it enacted, That the railroad companies specified in this act, and all other railroad companies hereafter incorporated in this State, shall have power to construct their roads so as to cross each other if

45 necessary, by the main trunks or branches, or to unite
with each other, or with the branches thereof, and it
shall be the duty of said companies, when required to
receive on their roads and branches, the full loaded
freight cars from each other, and the branches thereof,
and transport the same to their destination, and return
them, without charging for the transportation of the
goods, wares, merchandize, and produce thereon, any
greater rate of freight, than they charge for similar
goods, wares, merchandize and produce in their own
46 cars. *Provided* that said companies shall not be compelled
to receive such cars on their roads, unless they
are constructed with the same guage, and are of equal
strength with their own cars, of which the principal
engineer on the road of which it is proposed to require
said cars to be transported, shall be the judge. *Provided*,
that the bonds of the State proposed to be issued
to the Memphis & Charleston Railroad Company, under
the provisions of this act, shall in the event of
their issuance to said company, be divided between the
47 main trunk line proposed to be constructed by said
company, and the branch thereof, from the town of
Moscow, to the town of Somerville, in the county of
Fayette, according to the respective lengths of said
main trunk line and said branch; and the lien of the
State as herein secured, shall continue upon said main
line, and also upon said branch, until said bond and
interest are paid, as heretofore provided.

SEC. 17. Be it enacted, That in all cases, where bonds
48 may be issued to any of said companies as provided in
this act, the State of Tennessee shall be entitled to two
directors in each company, to be appointed by the
Governor of the State, to which bonds may be issued.

SEC. 18. Be it enacted, That when the Nashville and Chattanooga Railroad Company shall have completed twenty-five miles of their road; in addition to the eighty miles specified in the 2nd section of the act

passed 4th February, 1848, Chap. 169; then the Gov- 49
ernor of the State, shall endorse and guarantee in the
name and on behalf of the State of Tennessee the bonds
of said company--to the amount of one hundred and
seventy-five thousand dollars, and in like manner
when another section of twenty-five miles of said road,
shall have been completed the Governor of the
State in the name and on behalf of the State,
shall endorse and guarantee the bonds of said
company, to the additional amount of one hun-
dred and seventy-five thousand dollars, and said 50
bonds are to be endorsed and guaranteed in the
same manner, and the same indemnity is to be fur-
nished by said company for the protection of the State,
and the like lien is to be given and the same character
of bonds are to be endorsed and guaranteed as provid-
ed in the said Act of 4th February, 1848.

SEC. 19. Be it further enacted, That the aid contem-
plated by the First Section of this Act shall only be
extended to one of the roads chartered under the names 51
of the Nashville and Southern Railroad Company, and
the Tennessee and Alabama Railroad Company—*pro-
vided*, that the first one of said roads which shall secure
the subscription of the capital stock for the construc-
tion of the same shall be entitled to such aid—*pro-
vided further*, that if the Nashville and Southern Rail-
road Company first obtain the stock in this Railroad as
provided in the First Section of this Act, and shall con-
struct their road to the Tennessee River, to the Missis-
sippi State line, or to a point between the Tennessee 52
River and the Mississippi State line, then the Tennes-
see and Alabama Railroad Company may construct
their road from the Alabama State line to intersect
with the Nashville and Southern Railroad at such point
as said Company may select, and the provisions of
this Act shall extend to the Tennessee and Alabama
Railroad from the Alabama State line to said point of
intersection, but if the Tennessee and Alabama Railroad

Company first obtain the stock in their Railroad as provided in the First Section of this Act, and construct their road to the Alabama line in the direction of Florence, then the Nashville and Southern Railroad Company may construct their Railroad from the Tennessee River, the Mississippi State line, or any point between the Tennessee River and the Mississippi State line, so as to intersect the Tennessee and Alabama Railroad at such point as the Company may elect, and the provisions of this Act shall extend to said Railroad from said point of intersection to the Tennessee River, the Mississippi State line, or to any point between the Tennessee River and the Mississippi State line, and the Nashville and Southern Railroad Company and the Tennessee and Alabama RailroadCompany shall have power to unite or consolidate their stock if they deem it advisable, and upon such terms as the Companies may agree upon, *provided, also,* that if the Memphis and Nashville Railroad Company shall not comply with the requirements of this Act, and complete thirty miles of their road within four years, or if the Nashville and Northwestern Railroad Company shall in like manner fail to complete thirty miles of their road within four years, then the Tennessee Central Railroad Company shall have all the rights, powers, privileges and benefits intended to be given by this Act to those Companies respectively under the same restrictions and limitations, but the said Tennessee Central Railroad Company shall be allowed two years longer time in which to prepare thirty miles of their road bed, for the reception of the iron rails, and may then receive the aid of the State in the issuance of bonds for their benefit as prescribed in this act—provided—that this provision shall not preclude any subsequent Legislature from extending the time of four years in which to complete any section of thirty miles of said Nashville and Memphis or Nashville and Northwestern Railroad. That each of said companies are hereby authorized and required to ap-

point an agent or agents, to whom the bonds shall be 57
delivered, and whose duty it shall be to control said bonds, and see that they are exclusively applied to the payment of the Railroad iron, and equipments, as provided for in this act, and for no other purposes whatever, and the said agent, before he receives the bonds of the State shall give bond and security to be approved by the Governor, and payable to the State of Tennessee, for the application of the bonds or the proceeds thereof, to the purposes aforesaid, *provided*, That before any
bonds under the provisions of this act, shall be issued 58
to any agent of any Railroad, contemplated by this act, the President of any such company, shall first deposit in the office of the Secretary of State, a full, true and accurate list of all the stockholders with the sums subscribed by each and every stockholder.

SEC. 20. Be it enacted, That no road embraced in this *Bill*, shall be entitled to State aid, unless it shall within four years complete at least one section of thirty
miles, or the whole length of the road if less than thirty 59
miles long.

Passed 11th Feb'y, 1852.

JORDAN STOKES,
Speaker of the H. of Rep.
M. R. HILL,
Speaker of the Senate.

Correctly enrolled
Feb'y 25, 1852.
FRANK HARDEMAN, 60
Chairman.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an Act of the General Assembly of the State of Tennessee passed February 11th, 1852, being Chapter 151 of the printed acts the original of which is now of record in my office.

61 In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 13th day of February, A.D. 1879.

[L.S.]

CHAS. N. GIBBS,
Secretary of State.

62

CHAPTER CLIII.

AN ACT *to authorize the renewal of certain bonds of the State of Tennessee.*

WHEREAS, most of the bonds heretofore issued by the State of Tennessee, were issued without having coupons attached thereto, which subjects the holders to 63 great inconvenience and the State to great expense in the payment of the interest thereon. For remedy whereof:

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Governor cause to be prepared a sufficient number of coupon bonds of the State of Tennessee of the denomination of $1,000 each, made payable to or order, of similar language, as nearly as practicable, and containing precisely the 64 same obligations of the bonds which have been heretofore issued without coupons, except that the renewed bonds shall be made to fall due on the first day of January next succeeding the maturity of the old bonds, for which they are substituted, and that the coupons shall fall due on the first of January and first of July of each year, and which said bonds shall contain at their head, and on their face, in conspicuous letters, the words, "Renewed Bond."

Sec. 2. *Be it enacted,* That on application of any 65
person, holding any bond or bonds heretofore issued by the State without coupons, and desiring to exchange said bond or bonds for a like amount in bonds prepared under the provisions of the first section of this act, then it shall be the duty of the Governor to sign the number of the renewed bonds applied for, and cause them to be counter-signed by the Secretary of State, and the great seal of the State to be thereto affixed, and the coupons thereto to be filled up and signed by the Comptroller, and upon the surrender of the bond or 66
bonds, so desired to be exchanged, the Governor shall issue and deliver to the person so applying an equal amount in the renewed bonds, prepared as aforesaid.

Sec. 3. *Be it enacted,* That the Governor shall cause each of the old bonds thus surrendered to be cancelled and to be filed away by the Secretary of State in his office.

Sec. 4. *Be it enacted,* That the Secretary of State 67
shall take and preserve a receipt from the person receiving a renewed bond, which shall contain the number, date and time of the maturity of said bond, and also the number of the old bond in lieu of which it issued, and on each renewed bond he shall cause to be entered the number of the old bond in lieu of which it was issued.

Sec. 5. *Be it enacted,* That upon the presentation of any old bond in exchange for a renewed bond, it shall be the duty of the Comptroller to compute the interest 68
due upon said old bond up to the first of January or first of July, as the case may be, immediately preceding the falling due of the first coupon on the renewed bond given in exchange for said old bond, and to issue his warrant to the Treasurer for the payment of said interest, and that for all the services performed by the Secretary of State, under the provisions of this act, he be allowed one dollar for each renewed bond so issued,

69 and that the same sum be allowed the Comptroller for his services, to be paid by the person applying for said bonds.

SEC. 6. *Be it further enacted*, That the person receiving said renewed bonds, shall also pay the expense of engraving the same.

SEC. 7. *Be it further enacted*, That the different internal improvement companies to whom the bonds of the State may be lent under the different acts of the
70 present legislature, shall pay the expense of engraving and preparing the same.

SEC. 8. *Be it enacted*, That the Governor of the State shall cause to be engraved or printed, the bonds which may be issued under the acts of the present General Assembly as a loan to internal improvement companies, and the said bonds shall bear date on the first day of January, prior to their issuance, and the coupons thereto shall be payable on the first days of January and
71 July, of each year.

SEC. 9. *Be it enacted*, That the coupons shall be signed and numbered by the Comptroller, and the bonds shall be countersigned, sealed and numbered by the Secretary of State, and upon delivering said bonds to the company authorized to receive the same, the Secretary of State shall take a receipt, reciting the number, date and amount of said bonds in a well bound book to be deposited in his office, and the Comptroller
72 and Secretary of State shall each be entitled to receive twenty-five cents for each bond so prepared, to be paid by the party receiving said bonds.

SEC. 10. *Be it enacted*, That when it is proved to the satisfaction of the Comptroller of the State, that coupons of interest, attached to State bonds, have been lost and an affidavit to that effect has been or shall be made by the holder of the bond, and a bond of indemnity is

executed to the State, the Comptroller is, and shall be 73
authorized to issue his warrant for the payment of the amount of the interest due, and for which the coupons issued, which payment is to be made to the *bona fide* holder of the bond of the State.

JORDAN STOKES,
Speaker of the House of Representatives.
M. R. HILL,
Speaker of the Senate.

Passed, February 21, 1852. 74

CHAPTER CXXXI.

AN ACT *to amend an act passed 11th February,* 1852, *entitled "an act to establish a system of Internal Improvements in this State."*

SECTION 1. *Be it enacted by the General Assembly* 75
of the State of Tennessee, That the bonds of the State shall issue to the companies mentioned in the first and tenth and nineteenth sections of the act which this is intended to amend, and also to the "Edgefield and Kentucky Railroad Company," "Central Southern Railroad Company," "Knoxville and Charleston Railroad Company," "Mississippi Central and Tennessee Railroad Company" "Knoxville and Kentucky Railroad Company," "Tennessee, Western and Charleston Railroad Company," and "Cincinnati, 76
Cumberland Gap and Charleston Railroad Company," upon the terms and conditions mentioned in the act which this is intended to amend, but to the extent of ten thousand dollars (instead of eight thousand) per mile. *Provided,* that the aid of the State shall be extended to the South Carolina, Tennessee and Kentucky Railroad Company, in lieu of the Knoxville and Charleston Railroad Company, to the extent of fifty-

77 five miles and no more, in the event the Blue Ridge Railroad Company of South Carolina shall adopt the charter of said South Carolina, Tennessee and Kentucky Railroad Company, and obligate themselves in such manner as shall be satisfactory to the Governor, not to stop the construction of the said road at a junction with the East Tennessee and Georgia Railroad, but to build said road to South-West Point; and said South Carolina, Tennessee and Kentucky Railroad Company, before it shall receive the aid herein provided, shall
78 bring itself within the general provisions in all respects, of the act which this is intended to amend. But should the Blue Ridge Railroad Company not adopt such charter, and enter into the obligations aforesaid, then the provisions of this act and that which it is intended to amend, shall apply in all things to the Knoxville and Charleston Railroad Company.

SEC. 2. *Be it further enacted*, That bonds of the State shall issue to the companies mentioned in the
79 first section of this act, and the tenth and nineteenth sections of that which this is intended to amend, for each bridge that said companies, or either of them, may have to build in East, Middle and West Tennessee, across the Holston, Clinch, Big Hatchie, Tennessee and Cumberland rivers, for the maximum sum that bonds are provided to be issued to said East Tennessee and Georgia Railroad Company, by an act passed February 4th, 1852, entitled "an Act to aid in the completion of the East Tennessee and Georgia Railroad,"
80 and upon the terms and conditions mentioned in said act (except the second section), and also in the fifth and sixth sections of an act, passed February 26th, 1852, entitled "an Act to charter the Chattanooga, Blue Spring and Cleveland Railroad Company, and for other purposes," and said bonds to be issued under this section shall be included in the aggregate amount of stock raised by said companies in the same manner that the three hundred thousand dollars of bonds

loaned to the East Tennessee and Virginia Railroad Company under an act passed January 15th, 1852, to enable said company to build bridges, are provided to be included in the aggregate amount of stock to be raised by the East Tennessee and Virginia Railroad Company.

SEC. 3. *Be it further enacted*, That the office of "commissioner of roads" be filled by the appointment of the Governor; that the incumbent shall hold his office for two years, and shall receive an annual salary of two thousand dollars. It shall be his duty to examine into the condition of railroad companies applying for the bonds of the State, and to report on oath to the Governor the condition of said roads and the companies owning them; inquiring into, and reporting all the facts necessary to be reported upon under this act, and that which this is intended to amend. He shall further superintend and supervise the interest of the State in all the railroads and turnpike roads of this State, and whenever he may deem it necessary, report to the Governor any facts he may believe to be of importance to said interest. The said commissioner, in making his investigations, shall have the power to administer oaths, and send for persons and papers; and may, if in the opinion of the Governor it should be necessary and proper, apply to the courts for aid to protect said interests; and it shall not be lawful for the Governor to issue such bonds to any railroad company until he shall be satisfied they have complied with the law.

SEC. 4. *Be it enacted*, That if any officer, agent or servant of any railroad company receiving the bonds of the State, shall appropriate said bonds or the money arising from the sale thereof, or any portion of either, to any other use than that prescribed in the act under which said bonds shall he issued, such person or persons so offending, shall be deemed guilty of a felony, 85 and upon conviction shall undergo confinement in the penitentiary for a period of not less than five nor more than fifteen yeas.

SEC. 5. *Be it enacted,* That no road embraced in this act shall be entitled to its provisions, unless it shall, within four years, grade one section of thirty miles.

SEC. 6. *Be it enacted,* That the Governor shall endorse and guarantee the bonds of the Nashville and 86 Chattanooga Railroad Company to an amount not exceeding six hundred and fifty thousand dollars, and the State shall thereupon, by virtue of this act, be invested with a lien upon the entire road of said company, with all its equipments, fixtures, &c., and shall have the same remedies for enforcing said lien as are given by previous acts of the General Assembly directing an endorsement of the bonds of said company. The provisions of this act shall extent to all railroad companies mentioned in the aforesaid act passed 11th February, 87 1852, whose charters, routes or names have been, or may hereafter be changed; and if any two or more of said companies shall be consolidated, they or the consolidated company shall still be entitled to the provisions of this act.

SEC. 7. *Be it further enacted,* That the Mississippi Central and Tennessee Railroad Company shall be entitled to the provisions of this act from Jackson, Tennessee, to the Tennessee river, for any extension of said 88 road, which said company may make from Jackson by way of Huntington in the direction of Nashville. And, *provided, further,* that nothing in this act shall be so construed as to extend the time for the completion of the first section of the roads mentioned in the said act of the 11th February, 1852.

SEC. 8. *Be it enacted,* That the bonds to be issued under the provisions of this act shall, in no case, be sold at less than par.

SEC. 9. *Be it further enacted*, That the first section of an act passed February 11th, 1852, entitled "an act to establish a system of internal improvements in this State," be so amended that whenever the East Tennessee and Virginia Railroad Company shall have graded, and shall have ready to put down the necessary timbers for the reception of rails, as is contemplated in said section, from Knoxville to the Holston river at Magbie's ferry, or to the Holston river at Middletown, at each end, it shall be the duty of the Governor to issue bonds of the State to the company, as is required in said section, and when said company shall have complied with the above requisitions it shall be considered as fulfilling the requirements in full, of the first section of the act above referred to. 89 90

SEC. 10. *Be it enacted*, That the provisions of this act shall extend to and embrace the Mississippi and Tennessee Railroad Company, chartered 5th December, 1853, and the State aid given to other roads by this act, shall be given in like manner to the said Mississippi and Tennessee Railroad, so far as the same lies in the State of Tennessee. 91

SEC. 11. *Be it enacted*, That the farther time of two years is hereby extended to the South-Western Railroad Company, to bring themselves within the provisions of the act entitled "an act to establish a system of internal improvements in this State."

SEC. 12. *Be it further enacted* That this act shall take effect from and after its passage. 92

WM. H. WISENER,
Speaker of the House of Representatives.
EDWIN POLK,
Speaker of the Senate.

Passed, February 8, 1854.

93 CHAPTER 225.

AN ACT *to amend the Charter of the Memphis and Sommerville Turnpike Company, and for other purposes.*

SECTION 5. *Be it enacted*, That the 4th section of an act to establish a system of internal improvements in this State be amended by striking out the word twenty wherever it occurs in said section, and inserting the word ten, so as to allow all the railroad companies en- 94 titled to the benefits of said act, and an act passed February the 8th, 1854, as an amendment thereto, to obtain the bonds of the State upon sections of ten miles instead of twenty miles, after the 1st section, of thirty miles has been completed.

WM. H. WISENER,
Speaker of the House of Representatives.
EDWIN POLK,
Speaker of the Senate.

95 Passed February 17th, 1854.

CHAPTER 82.

AN ACT *to amend the Internal Improvement acts of 1852 and 1854.*

Be it enacted by the General Assembly of the State of Tennessee, That, hereafter, it shall not be necessary for 96 the Engineer in Chief to swear to the subscription list, solvency, and condition of any Railroad Company applying for State aid, but the oath required of the Engineer shall be taken by the President and Treasurer of the Company, whose duty it is to know of the condition, solvency, and financial affairs of said Company.

SEC. 2. *Be it further enacted*, That it shall be lawful and proper for the East Tennessee and Virginia

Railroad Company to lay down iron at either end of said road, and to draw the bonds of the State according to the General Internal Improvement Act, passed February 11th, 1851-2, and the act of February 8th, 1853-4. 97

SEC. 3. *Be it enacted*, That the fifth section of the act of February 17, 1854, be so amended that, hereafter, the bonds of the State may issue for ten miles or more of road graded, as required by existing laws, after the completion of the first thirty miles. 98

SEC. 4. *Be it further enacted*, That so much of the General Internal Improvement Acts of 1851-2, and 1853 and 1854, as requires the several Railroad Companies embraced within the provisions of the aforesaid acts, to have the bridges, abutments, and embankments, on the several sections of their respective roads completed before the bonds of the State shall issue to the Companies of said roads, be so amended, as to except those bridges, abutments, and embankments, which have been provided with State aid. 99

SEC. 5. *Be it enacted*, That this act shall take effect from and after its passage.

NEILL S. BROWN,
Speaker of the House of Representatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

Passed January 19th, 1855. 100

101 **An Act** *to aid in constructing a Railroad from Chattanooga to the East Tennessee and Georgia Railroad in the direction of Knoxville; and for the benefit of the East Tennessee and Virginia Railroad; and for other purposes.*

Sec. 1. *Be it enacted, by the General Assembly of the State of Tennessee,* That the Governor be and he is hereby, directed for, and on behalf of, the State, to endorse and guarantee the payment of the six per cent.
102 bonds of the East Tennessee and Georgia Railroad Company, to the amount of one hundred and fifty thousand dollars; and also similar bonds of the Nashville and Chattanooga Railroad Company, for the sum of one hundred and fifty thousand dollars; the said bonds, or the proceeds thereof, to be applied exclusively towards the construction of a railroad from Chattanooga to an intersection with the East Tennessee and Georgia Railroad, in the direction of Knoxville, to be made and operated as a branch or part of the said
103 East Tennessee and Georgia Railroad. And, upon the making of such endorsement by the Governor, the State shall thereupon by virtue of this Act, be invested with a lien upon said branch road, with all its fixtures and appurtenances; and shall have the same remedies for enforcing said lien as are given by law for enforcing the lien against the Nashville and Chattanooga Railroad Company for similar endorsements heretofore made.

Sec. 2. *Be it enacted,* That before the Governor
104 shall make such endorsement, he shall require the President of the East Tennessee and Georgia Railroad Company to make and file in the office of the Secretary of State an affidavit, sworn to before some Judge of the State, or Justice of the Peace for Knox or Davidson Counties, declaring that such bonds, or the proceeds thereof, shall be in good faith applied to the construction of the proposed railroad from Chattanooga to the East Tennessee and Georgia Railroad, and to no other use or purposes whatever.

SEC. 3. *Be it enacted*, That the Governor of the State of Tennessee is hereby authorized and required to endorse and guarantee, in the name, and on behalf, of the State of Tennessee, the bonds of the East Tennessee and Virginia Railroad Company, to any amount not exceeding the sum of two hundred thousand dollars, bearing interest at the rate of six per cent. per annum, and payable thirty years after date, Provided always, that the endorsement of the said bonds by the Governor shall, *ipso facto*, constitute a lien upon the road, fixtures, and whole stock of the Company, in addition to the lien heretofore secured by law. 105 106

SEC. 4. *Be it enacted*, That the bonds of the East Tennessee and Georgia Railroad Company, and the Nashville and Chattanooga Railroad Company, to be endorsed, under the provisions of this Act, shall in no instance be sold at less than par.

SEC. 5. *Be it further enacted*, That it shall be the duty of the several railroad companies in this State, who have received, or may hereafter receive, bonds of the State, or the endorsement of their bonds by the State, to aid in the construction of their several roads, under the provisions of the Act of 1851-2, and the Acts amendatory thereto, at the expiration of five years from the issuance or endorsement of their said several bonds, annually to set apart, and pay over to the Treasurer of the State, two per cent. per annum upon all bonds which have been, or may hereafter be, issued or endorsed, as aforesaid, as a sinking fund for the ultimate redemption of the bonds issued or endorsed as aforesaid; which sinking fund, when paid over, the Governor, Comptroller of the Treasury, and President of the Bank of Tennessee, shall invest in bonds of the State, and reinvest all accruing interest in like securities; and they are hereby constituted a Board of Commissioners for the management, government, and control of said sinking fund. 107 108

109 SEC. 6. *Be it further enacted*, That should any of
said Railroad Companies fail or refuse to comply with
the provisions of the fifth Section of this Act, it shall
be the duty of the Governor forthwith to notify the
Attorney-General of the District in which is situated
the place of business of said Company failing or refusing,
as aforesaid, of the fact; and thereupon the Attorney-General
shall immediately proceed against said
company, to collect said sinking fund, in the manner
prescribed in the sixth Section of an Act entitled An
110 Act to Establish a System of Internal Improvements in
this State, passed February 11, 1852.

SEC. 7. *Be it enacted*, That for the purpose of aiding
the Nashville and Northwestern Railroad Company
in the construction of bridges on their said road, across
the north and middle fork of Obion River, Spring Creek,
Big Sandy, Turnbull and Harpeth Rivers, and for the
purpose of aiding the Mobile and Ohio Railroad Company
in their bridges across the two forks of Obion,
111 three forks of Forked Deer and Muddy Rivers; that
coupon bonds of the State of Tennessee issue to the
Nashville and Northwestern Railroad Company in an
amount not exceeding one hundred thousand dollars,
fifty thousand dollars of which shall be applied to aid
in constructing bridges in West Tennessee, and fifty
thousand (being balance of said one hundred thousand)
dollars, to aid in constructing bridges across Turnbull
and Big Harpeth in Middle Tennessee; also that coupon
bonds of the State of Tennessee shall issue to the
112 said Mobile and Ohio Railroad Company, in an amount
not exceeding sixty thousand dollars, for the purpose
of aiding in building the aforesaid bridges, and that
said bonds issue in both cases upon the conditions, and
under the rules and regulations and restrictions, prescribed
by the second Section of an Act passed 8th day
of February 1854, entitled An Act to Amend an Act
to Establish a System of Internal Improvements in this
State, passed 11th day of February 1852.

SEC. 8. *Be it further enacted*, That for the purpose of aiding the Memphis and Ohio Railroad Company in the construction of their bridges across the north fork of Forked Deer and the two Obion Rivers, on the line of said railroad, between Trenton and Paris, that coupon bonds of the State of Tennessee, in an amount not exceeding fifty thousand dollars, issue to said Company, upon the terms and conditions that State aid is now granted to said Company, to construct their bridges across Forked Deer; Provided, said bonds shall not issue until said railroad is graded from Trenton to the Carroll County line in the direction of Paris. 113 114

SEC. 9. *Be it further enacted*, That whenever the Winchester and Alabama Railroad Company shall grade that part of their road, which lies between the Town of Fayetteville, in Lincoln County and the point of intersection with the main trunk line; that coupon bonds of the State of Tennessee shall issue to said Company, in an amount not exceeding fifty thousand dollars, to aid said company in the construction of bridges across Elk River and its tributaries, which run between the points aforesaid, under the same rules, regulations, and restrictions, and upon the conditions prescribed in the first Section of this Act. 115

SEC. 10. *Be it further enacted*, That the State of Tennessee does hereby guarantee and warrant, the payment of the principal and interest of three hundred and fifty bonds each for the sum of one thousand dollars, payable at thirty years, and bearing six per centum per annum interest, issued or to be issued by the City of Memphis, and paid to the Memphis and Little Rock Railroad Company, in payment for the stocks of said City taken and held in the capital of said Railroad Company. 116

SEC. 11. *Be it enacted*, That it shall be the duty of the Governor of this State, as soon as said bonds, or

117 any of them are presented to him, to endorse thereon
and attest with the State Seal, the following endorse-
ment, to wit: "The payment of the principal and in-
terest of this bond is guaranteed by the State of Ten-
nessee," and he shall sign said endorsement with his
official signature; and said endorsement shall bind the
State of Tennessee: Provided, that the said Memphis
and Little Rock Railroad Company, shall first endorse
each of said bonds guaranteeing the payment of the
principal and the interest of the same: Provided fur-
118 ther, that the City of Memphis shall first by its proper
authorities, execute a mortgage, giving to the State of
Tennessee a priority of lien on the stock and interest of
said City in said Railroad Company: and Provided
further, that said Railroad Company shall give to the
State of Tennessee a prior lien upon the whole of the
iron and equipments upon the first division of the said
road extending from Memphis to the St. Francis
River, in Arkansas, and Provided further, that the
said bonds, when so endorsed by this State, shall not
119 be sold for a less value than the bonds of the State are
required by law, in such cases, to be sold.

SEC. 12. *Be it further enacted*, That the said City bonds
shall not be so endorsed until the proper authorities of
the City of Memphis shall provide and set apart a
fund, known as a sinking fund, out of which shall be
paid, over and above the six per cent. interest, two per
centum per annum on the said three hundred and fifty
bonds, or so many of them as may be endorsed by the
120 State, commencing five years from this date.

SEC. 13. *Be it enacted*, That the Governor is hereby authorized and directed to issue coupon bonds of the State of Tennessee, to the amount of thirty thousand dollars, to the President and Directors of the McMinnville and Winchester Railroad Company, to be used by them in constructing bridges over the Barren Fork of Collins River, Hickory Creek, and Duck River, all of said road now being graded, and the track in part laid down: Provided, that upon the making of such endorsement by the Governor, the State shall thereupon, by virtue of this Act, be invested with a lien upon said road, and all its fixtures: Provided, that the bonds that may be issued or endorsed by the State, under the provisions of this Act, shall not be sold for a less amount than their par value, except the bonds endorsed for the East Tennessee and Virginia Railroad Company. This Act shall take effect from and after its passage.

NEILL S. BROWN,
Speaker of the House of Representatives.

EDWARD S. CHEATHAM,
Speaker of the Senate.

Passed February 21, 1856.

125 CHAPTER XCIII.

AN ACT *to provide for the equalization and investment of the Sinking Fund on the bonds issued to, or endorsed for Railroads in this State.*

SEC. 1. Be it enacted by the General Assembly of the State of Tennessee, That the money, or other bonds that have heretofore, or may be paid by cities or railroad companies in this State, to the Sinking Fund Commissioners, by the 1st day of January 1860, together with the accruing interest thereon, to that date, shall be passed directly
126 to the credit of the party having so paid the same, and be a release to said party for that amount on the debt due by them to the State of Tennessee.

SEC. 2. Said bonds shall be cancelled by said commissioners; and if endorsed bonds of any railroad company, shall be cancelled as hereinafter provided for the cancellation of State bonds and shall be delivered over to said company or corporation, taking the President's
127 of said company, or the officers of such corporation receipt for the same, which receipt shall be filed, and a copy of the same placed upon a book, which the said commissioners shall keep for that purpose. If State bonds, they shall be cancelled, and filed in the office of the Secretary of State, as hereinafter provided.

SEC. 3. That after the first day of January 1860, all railroad companies, or city corporations, who have or may hereafter receive the bonds of the State, or its endorsement of their own bonds, under the general inter-
128 nal improvement law of this State, or any other law, shall be required to pay two and one-half per cent. per annum, as a sinking fund, on the amount of the bonds so issued or endorsed by the State for said company or corporation, to be paid in equal instalments, on the first days of April and October, five years after the date of said bonds, and annually thereafter.

SEC. 4. All bonds issued during any one year, shall be dated on the first day of January of that year.

Sec. 5. Said companies or corporations may pay said sinking fund in cash, or in the like character of bonds, that may have been issued or endorsed by the State for said company at their face or par value. 129

Sec. 6. If paid in money, the commissioners shall invest it immediately in the bonds of the State, and shall have the same cancelled and filed as heretofore provided. Such bonds are to be of the same character as those issued to such company or corporation.

130 Sec. 7. The sinking fund when paid in all cases shall be passed directly to the credit of said company or corporation, and be a release to said company or corporation from that amount due by them to the State. The Commissioners shall issue a receipt to each company or corporation for such payment, retaining a duplicate in a well bound book kept for that purpose.

Sec. 8. Each and every railroad company or city cor-
poration shall provide the interest semi-annually as 131
now provided by law on the amount of bonds unpaid at
the time said interest falls due, and not on the original
amount issued to, or endorsed by the State for said
company as heretofore provided.

Sec. 9. The Comptroller of the State shall keep a re-
gular account against each company or corporation,
charging them with the amount of bonds originally is-
sued to or endorsed for, said company or corporation
by the State, and crediting them by the amount of
sinking fund paid, and shall furnish the treasurer of the 132
State a statement of the amount due by each company
or corporation, on the first day of June and December of
each year, that he may know how much interest each
company or corporation has to pay.

Sec. 10. The commissioners of the Sinking Fund shall cancel all bonds of the State as soon as paid in or purchased, by cutting out the Governor's and Secretary of

133 State's names, and so defacing each coupon, that it cannot by possibility be used or circulated. and shall file the same in the Secretary of State's office.

Sec. 11. This law shall be in full force from and after its passage, and shall repeal all laws in conflict with it. but shall not be so construed as otherwise to affect any law on the subject of the sinking fund or the payment of interest due on State or endorsed bonds.

W. C. WHITTHORNE,
134 *Speaker of the House of Representatives.*
TAZ. W. NEWMAN,
Speaker of the Senate.

Passed March 20, 1860.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an act of the General Assembly of the State of Tennessee, passed March 20, 1860, the original of which is now on
135 record in my office,

[L. S.] In testimony whereof, I have hereunto subscribed my official signature, and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the department in the city of Nashville, this 21st day of July, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.
136

CHAPTER X. 137

An act *for the relief of Railroad Companies, Receivers and others.*

Sec. 1. *Be it enacted by the General Assembly of the
State of Tennessee* That so much of the act of March
20, 1860, Chapter 93, as requires Railroad Companies
to pay annually two and a half per cent. on the amount
of the bonds issued or endorsed by the State as a Sink-
ing Fund, be and the same is hereby suspended for the
term of one year from and after the passage of this 138
Bill.

Sec. 2. *Be it also enacted*, That the Governor of the
State, be and is hereby authorised and required to pay
the Receivers who have taken or may take charge of
the roads and effects such salaries as he may deem
just and fair, provided that the same shall not exceed
the salary heretofore paid to the Superintendent of
said road by the President and directors thereof, and
upon his order the Comptroller shall issue his warrant 139
to the Receivers for such amounts, said salary being
made payable quarterly.

Sec. 3. *Be it further enacted*, That the County
Court of Blunt County may in their discretion ap-
propriate the fund heretofore collected by said county
as railroad taxes for county purposes; Provided said
County Court shall hereafter, when notified by the
Knoxville and Charleston Railroad Company levy a
tax sufficient to meet the interest on the bonds hereto-
fore authorised to be issued by said county for the 140
benefit of said Knoxville and Charleston Railroad
Company, according to the provisions of the act pro-
viding for the issuance of said bonds.

Sec. 4. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor be directed to issue a duplicate bond, No. 8,905, for $1000 in consideration of the destruction of the original bond of the

141 same number to P. Henneperry of the State of Virginia.

Passed February 1st, 1861.

Pages 25 and 26 of Acts of Extra Session, 1861.

AN ACT *to amend the Railroad Law.*

*Be it enacted by the General Assembly of the State
of Tennessee* That Section 1,101 of the Code and the
acts amendatory thereto, be so amended as to make it
discretionary with the Governor to appoint a receiver
142 as therein provided, or to permit the affairs of the
several railroads of this State to remain in the hands
and under the management of the Company owning
the same as the interest of the State may suggest.
Provided however that no lien of the State on the
assets, property and franchises of said Company shall
be affected thereby.

This act to take effect from and after its passage.

W. C. WHITCOMB,
143 *Speaker of the House of Representatives.*
E. L. STOVELL,
Speaker of the Senate.

Passed May 7, 1861.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an act of the General Assembly of the State of Tennessee, passed February 1, 1861, the original of which is now on file in my office.

144

In testimony whereof, I have hereunto subscribed my official signature, and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July A. D., 1879.

[L. S.]

CHAS. N. GIBBS,
Secretary of State.

An Act to authorize the Bank of Tennessee to receive and pay out the Treasury Notes of the Confederate States. 145

Sec. 1. Be it enacted by the General Assembly of the State of Tennessee, That it shall be lawful for the banks of this State to receive and pay out the Treasury notes of the Confederate States of America, issued in pursuance of an act passed by the Provisional Congress of said State on the   day of May, 1861.

146 Sec. 2. Be it further enacted, That all officers of the State are authorized to accept said Treasury notes in payment of moneys due the State and the several counties thereof; and that they are authorized to receive in payment of moneys due the State and the several counties thereof the circulation of the Banks of this State which conform to the Bank Code of Tennessee and the acts amendatory thereof.

Sec. 3. Be it further enacted, That the banks of this State which are subject to the provisions of the Bank Code, (the Bank of Tennessee being included) shall resume specie payment simultaneously; and it is hereby expressly declared that it shall not be lawful for one of the banks to resume specie payment in advance of another. 147

Sec. 4. Be it further enacted, That the policy of the Banks of Tennessee in retiring and diminishing their circulation is detrimental to the public interest, and that they be required to reverse their policy and increase their circulation, so as to answer their public want; Provided, however, That such increased circulation shall not exceed two dollars for one of paid capital stock. 148

Sec. 5. Be it further enacted, That so much of section 1 of an act passed on the 31st day of January, 1861, as fixed the time of the Banks therein named to resume

149 specie payment by the 1st day of July, 1862, be and the same is hereby repealed.

SEC. 6. Be it further enacted, That it shall not be lawful for any Bank in this State, either directly or indirectly, to pay dividends due to Stockholders who are citizens of the non slaveholding States of the United States of America. This prohibition shall commence during the existence of the war, which the Federal Government of said
150 States of America is waging against the Confederate States of America, and if any officer of any bank in this State, or the agent or attorney thereof, shall violate the provisions of this Act, he shall be guilty of a misdemeanor, and on conviction shall be imprisoned not less than twelve months, and fined not less than one thousand dollars. For the purposes of this section, the ownership shall be determined by the books of the bank as they stood on the 15th day of April, 1861.

151 SEC. 7. Be it further enacted, That it shall not be lawful to pay the interest on the bonds of the State of Tennessee, or other bonds upon which the State may be liable, if said bonds were held and owned on the 15th day of April, 1861, by citizens of the non-slaveholding States of the United States of America, or by any corporation of said States, the day named being the date of President Lincoln's proclamation calling for seventy-five thousand volunteers for the subjugation of the South; nor shall it be lawful to pay the princi-
152 pal, or any part thereof, of said bonds. This prohibition shall continue during the existence of the war which the United States of America are waging against the Confederate States of America. And at the close of the war, the debt, principal and interest, shall stand subject to adjustment and accommodation between the two governments, upon such equitable basis as shall be in accordance with the usage and practice of civilized nations.

Sec. 8. Be it further enacted, That it shall not be 153
lawful for citizens or corporations of the State to pay
debts which they may owe to citizens or corporations
of the non-slaveholding States of the United States of
America, during the war now in progress, and the
payment of said debts shall stand to adjustment and
accommodation at the close of the war, upon the
principles stated in section 7 of this act. And it shall
not be lawful for any person, by pretended assignment
or otherwise, to represent himself as owner of any
debts thus due, and in that manner evade the provisions 154
of this act; and an assignment of any of said
debts since the commencement of hostilities shall be
prima facie evidence that it was done to evade this act.
It is in like manner made illegal for any agent or attorney
to pay over moneys which may now be collected,
or which may hereafter be collected for the citizens
and corporations of said non-slaveholding States, and
this prohibition shall continue during the war, and in
no event shall the State of Tennessee become liable for
debts of any individual debt or of the State, unless said 155
debtor shall have paid the amount thereof into the
Treasury of the State.

Sec. 9. Be it further enacted, That a violation of Sections 7 and 8 of this Act shall subject the offending party, on conviction, to imprisonment at the discretion of the Court, and to a fine equal in amount to the sum paid.

Sec. 10. Be it further enacted, That it shall not be 156
lawful for any bank, or the officer, or agent thereof, to
remove from this State the assets, or any of the assets
of any bank in this State for the benefit of stockholders
who may be citizens of the non-slaveholding States of
the United States of America, and this prohibition
shall continue during the existence of the war now in
progress. If any bank officer shall directly or indirectly
violate the provisions of this section, he shall

be guilty of a felony, and on conviction, be sentenced tc imprisonment in the State Penitentiary for a period of not less than five nor more than ten years.

Sec. 11. Be it further enacted, That the interest on all bonds of the State, or upon which the State may be liable, held by the citizens or corporations of friendly powers, shall be paid at Nashville, Charleston or New Orleans, at the discretion of the Comptroller of the State, and it shall be the duty of the various railroad companies to pay the interest required of them into the hands of the Treasurer; provided, said bonds were *bona fide*, held and owned by said citizens and corporation on the 15th day of April, 1861, and that fact is made to appear to the satisfaction of the Comptroller of the State, by the affidavit of the party demanding payment, and proof of the fact if desired by the Comptroller, or upon the establishment of the fact in such other manner as shall be satisfactory to said officer. The Comptroller shall advertise at which of said points on said bonds will be met. Provided further, if any of said bonds shall be owned *bona fide* by a citizen of the Confederate States, and the same is held by a guardian or agent in the non-slaveholding, the interest shall be paid as provided in this section; Provided, the same shall be paid to the owner of said bonds or a duly authorized Agent, Attorney or guardian a citizen of the Confederate States.

Sec. 12. Be it further enacted, That the four first words "at their first meeting" of the seventh section, eleventh line, of an Act passed February 27, 1856, Chapter 210, be, and the same are hereby repealed.

Sec. 13. Be it further enacted, That this Act take effect, from and after its passage.

W. O. WHITTHAME,
Speaker of the House of Representatives.
B. L. STOWELL,
Speaker of the Senate.

Passed July 1st, 1861.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an act of the General Assembly of the State of Tennessee, passed July 1st, 1861, the original of which is now on record in my office. 161

In Testimony whereof, I have hereunto subscribed my official Signature; and
[L.S.] by order of the Governor affixed the Great Seal of the State of Tennessee, at the Department in the City of 162
Nashville, this 21st day of July, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

CHAPTER CVII.

163 AN ACT *to establish a State Bank, to raise a fund for Internal Improvement, and to aid in the establishment of a system of Education.*

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee,* That a bank shall be and is hereby established, in the name and for the benefit of the State, to be known under the name and style of "The Bank of Tennessee," and the faith and credit of the State are hereby pledged for the support of the said Bank, and to supply any deficiency in the funds hereinafter specifically pledged, and to give indemnity for all losses arising from such deficiency. 164

SEC. 2. *Be it enacted,* That the capital of said Bank shall be five millions of dollars, to be raised and constituted as follows: the whole of the Common School Fund, whether the same is vested in stock in the present banks in the State, or in the hands of the Super-

165 intendent of Public Instruction, or in the hands of the county agents or other persons, except so much as may have been vested in any works of internal improvements, as well as the proceeds of the Ocoee lands, shall constitute a part of the capital of the Bank of Tennessee: the surplus revenue on deposit with the State, together with the unexpended interest thereon, shall also constitute a part of the stock of said Bank; and in addition to these amounts a sum shall be raised in specie, or funds convertible into specie at par value, on
166 the faith of the State, sufficient to make the whole capital five millions of dollars; *Provided*, that if the fourth instalment of the surplus revenue, apportioned under the act of Congress approved 23d June 1836, should be deposited with this State, the amount received shall be added to and constitute a part of the capital of said Bank, and be an addition to the capital stock of five millions of dollars above specified; *Provided further*, that the stock owned by the State, in the Union Bank, shall not constitute any portion of
167 the capital of the Bank of Tennessee.

SEC. 3. *Be it enacted*, That the money belonging to the Common School Fund, which now may be in possession of the Superintendent of Public Instruction, or which may hereafter come into his possession, shall be handed over to the president and directors of the Bank of Tennessee, as capital in said bank, and said president and directors, or a majority of them, shall be authorized and required for and in behalf of the State, and with
168 a pledge of the public faith and credit, to issue to the superintendent aforesaid State stock or certificates of debt, for such sum or sums as may be from time to time paid over by the said superintendent to the said president and directors; and the Governor of the State, the Comptroller of the Treasury, and the Superintendent of Public Instruction, shall dispose of the stock in any and all the Banks of the State, belonging to the common school fund, whenever the same

can be sold at par for specie, or funds convertible into 169
specie, at par value, and pay over the proceeds to the
president and directors of the bank, who shall issue
certificates of stock to the superintendent of public
instruction as aforesaid ; *Provided*, that any dividends
on the same, which shall not be declared at the time of
the sale, shall not be sold with the stock; but the same
shall be received by the superintendent and paid over
to the president and directors of the Bank, and shall
constitute a part of the contingent fund, to meet the
annual and semi-annual liabilities of the Bank, as shall 170
also the interest and dividends which may hereafter
arise on any portion of the capital of the school fund,
before said capital is paid over to the president and
directors of said Bank ; and in like manner the superintendent of public instruction shall pay over the proceeds of the sale of the Ocoee lands as they are received, and take certificates of stock ; *Provided*, that
if a system of common schools shall be adopted and
put into operation, by the present General Assembly,
the funds which may accrue after the year 1837, 171
for the benefit of common schools, from the bonuses
of the present Banks, and bonuses and dividends arising from other incorporate companies, and from
privileges, fines, penalties and taxes, shall constitute
part of the annual fund for distribution by the superintendent, and shall not be subscribed in stock in the
State Bank. But should a system of common schools
not be adopted as aforesaid, then said funds to be
vested in stock in said Bank, until otherwise directed
by the General Assembly. 172

SEC. 4. *Be it enacted*, That it shall be the duty of the Comptroller of the Treasury to draw from the Union Bank, the Planters' Bank, and the Farmers' and Merchants' Bank, the amount of the surplus federal revenue now on deposit with said Banks, in two yearly instalments ; the first instalment to be drawn on the first day of January 1839, each instalment to be drawn

173 in specie or funds convertible immediately into specie at par value; and as soon as each instalment is received, he shall pay over the same to the president and directors of the State Bank, and receive certificates of stock, which shall be kept by him for the benefit of the State; *Provided*, that if the said banks, or either of them, shall fail or refuse upon demand made as aforesaid, to pay over the surplus, or any part which may be demanded at the times aforesaid, then the comptroller shall direct suits to be instituted by the 174 Attorney-General of the State, for the amount so withheld, together with the ten per cent. authorized by their charters; and until said instalments are demanded, the present banks shall hold the surplus at the rate of six per cent. per annum, payable half yearly, and interest so accruing shall constitute part of the sinking fund hereinafter designated.

SEC. 5. *Be it enacted*, That it shall be the duty of the Governor of the State, on behalf of the State, to 175 execute the bonds of the State, for two and a half millions of dollars, which bonds shall be signed officially by the Governor, and countersigned by the Secretary of State, with the seal of the State affixed, and payable thirty years after date to the President and Directors of the Bank of Tennessee, or their assigns, bearing an interest not exceeding six per centum per annum, which shall be payable semi-annually, at the office of the Treasurer of Tennessee, or at such other place within the limits of the United States, as the 176 president and directors may select, which said bonds shall be delivered to the president and directors of said Bank; *Provided*, the Governor shall execute said bonds of any amount, not less than one thousand dollars each, and payable in such denomination of money as the president and directors may require; which bonds and also those hereafter directed to be issued, to pay for stock in internal improvement companies, shall be made payable to, and be sold and disposed of

by the president and directors of said Bank, for specie 177
or funds convertible into specie without loss, and shall
not be sold at a discount. And whenever any State
bonds may be issued for the benefit of any internal improvement
company, as hereinafter directed, the
Governor shall deliver them to the president and directors
of the Bank, and the full amount thereof at their
nominal value, when the proceeds are received by the
Bank, shall be placed to the credit of the company,
for whose benefit such bonds may be issued, and any
premium for which such bonds may be sold, shall inure 178
to the benefit of the State; *Provided*, that if at the
end of ninety days after any bonds may have
been delivered to the Bank; such bonds have not been
sold at par as herein provided for, then the President
and Directors of the Bank shall on application of the
President and Directors of the Internal Improvement
Company, for which such bonds were issued, deliver
the same to them upon their receiving them in payment
of the State's subscription at their nominal value;
or the said President and Directors of the Bank may 179
at their election pay such Internal Improvement Company
the amount of such bonds, at their nominal value,
and retain the same to be kept or disposed of for the
benefit of the State.

SEC. 6. *Be it enacted*, That immediately after the
location of the principal Bank and branches, the
Governor of the State shall nominate and appoint
twelve persons to act as Directors, more than one-third
of whom shall in no case be merchants, and which 180
nomination and appointment shall be subject to confirmation
or rejection by the General Assembly,
and the twelve persons so nominated and confirmed
shall constitute the Directors—one of whom shall be
the President, who are hereby incorporated, and made
a body politic and corporate, by the name and style of
"The President and Directors of the Bank of Tennessee," and shall so continue until the 1st day of

181 January 1868, and by that name shall sue and be sued,
plead and be impleaded, and they are hereby made able
and capable in law, to have, receive, purchase, enjoy
and retain to them and their successors, lands,
rents, tenements, hereditaments, goods, chattels and
effects, of what kind, nature, or quality soever, and the
same to sell, grant, demise, alien or dispose of; and
also to make, have and use a common seal, and the
same to break, alter and renew at their pleasure, also
to ordain, establish and put in execution such by-laws,
182 ordinances and regulations, as shall seem necessary and
convenient for the government of said corporation, not
being contrary to the laws and constitution of the
State, or of the United States.

SEC. 7. *Be it enacted*, That the President and Directors as elected, shall continue in office for two years, and until their successors are nominated and confirmed as aforesaid.

183 SEC. 8. *Be it enacted*, That of the dividends which
shall be declared by the Bank, one hundred thousand
dollars shall be annually set apart for common schools,
and the faith of the State is hereby pledged, for an
annual appropriation of said amount to common
schools, to be applied as the General Assembly may
direct. Of the dividends of the bank remaining, there
shall be annually appropriated for thirty years, and no
longer, or not so long, if the Bank should not continue
in operation so long, eighteen thousand dollars to
184 county academies, to be applied as the General Assembly may direct, and the faith of the State is hereby
pledged for the annual payment of the said sum;
Provided, the Trustees of the respective county academies in the several counties of this State shall relinquish
to the State all claims which they have against the
State of Tennessee, for debt due to those institutions
from citizens residing south of French Broad and Holston, and west of Big Pigeon rivers, and all claims they

may have to lands in the Ocoee district, as well as all 185
claims which they have against said citizens, which relinquishment shall be filed in the office of the Secretary of State, and the proceeds of two half townships of land in the Ocoee district, reserved by the Act disposing of said lands for the use of colleges and academies, shall be set apart for and given to the East Tennessee College and Nashville University, upon the trustees of said institutions executing such relinquishments, as are herein directed for the academies; and provided further, that such of said institutions as shall 186
relinquish as herein provided for, shall be entitled to their rateable proportion of the fund herein appropriated, according to the terms of said appropriation, and on such further conditions as the present General Assembly may prescribe, in the event the federal Government shall hereafter relinquish to the State of Tennessee the vacant lands south and west of the Congressional reservation line, an amount of forty thousand dollars, out of the sale of those lands shall be set apart as a perpetual fund for the support of a college 187
in the western district; *provided*, that the general Government in the act of relinquishment shall grant to the use of such college the appropriation herein made. The balance of the dividends shall be set apart as a sinking fund, to be applied to the extinguishment of the accruing interest on the bonds of the State, whether the same have been executed under any former Act, or may be executed under this Act.

SEC. 9. *Be it enacted*, That the following powers, 188
rules, conditions, limitations, and restrictions, shall be fundamental laws of said Bank, viz:

ARTICLE 1. The board shall select one of their number to preside over their deliberations, who shall be elected by a majority of the Directors present, of whom not less than five, shall constitute a quorum to do business; and no person not a citizen of this State, or who

189 is a stockholder, or director of any other bank, or copartner of any such director in trade and merchandise, shall be eligible as a director; *Provided*, should it so happen that any director should be appointed, who is a stockholder or director in any other Bank, his seat shall be considered vacant and the place filled by other directors as in other cases of vacancy; *and provided further*, if any director appointed as aforesaid shall, during his continuance in office, purchase stock or become a director in any other Bank, his seat shall be
190 vacated, which shall be filled by the directory as in other cases.

ART. 2. The President and Directors for the time being, shall have power to elect and remove the cashier, and they shall also have power to appoint such officers, clerks, and servants under them as shall be necessary for executing the business of the said corporation, and allow them such compensation for their services, as may be reasonable.

191 ART. 3. No director shall be entitled to any emolument, but the directors for the time being, shall have power to make such compensation to the president of the Bank, for his extraordinary attendance at the Bank and superintending its concerns, as shall to them seem reasonable. No discount shall be made when the cashier may be a maker or endorser.

ART. 4. They shall receive money on deposit, and pay away the same to order, free of expense, deal in
192 bills of exchange, and buy and sell any of the State stock now issued, or that may hereafter issue, and discount notes at said Bank with two or more good endorsers thereon, at a rate of interest not exceeding six per cent. per annum; *Provided*, that this article shall not be construed so as to prevent the said Bank from demanding and receiving a reasonable premium for exchange, in addition to the interest, upon bills or notes payable at a point beyond the limits of this State;

Provided also, that said Bank or either of said branches, 193
never shall purchase and have running to maturity, or
on hand, a greater amount of bills of exchange than the
amount of notes under discount.

Art. 5. The total amount of debts which said corporation shall at any time owe, whether by bond, bill,
note or contract shall not exceed twice the amount of
the capital stock paid in at the time over and above the
moneys on actual deposit for safe keeping. Nor shall
the entire amount of the risk or investment or securi- 194
ties in what form soever (save and except actual current
coin) at any time exceed twice the amount of the capital stock paid in.

Art. 6. In case of excess the directors under whose
administration it shall happen, shall be liable for the
same in their private capacities, and an action of debt
may in such case be brought against them or any of
them or their heirs, executors or administrators, in any
Court of this State, having jurisdiction, by any cred-
itor or creditors of the said corporation and may be 195
prosecuted to judgment and execution; any condition,
covenant and agreement to the contrary notwithstanding. But this shall not be so construed to exempt said
Bank, or the lands, tenements, goods or chattels of the
same, and on their insufficiency, the State of Tennessee
being also liable for, and being chargeable with the
said excess; such of the directors who may have been
absent when said excess was contracted or created, shall
be exonerated from individual liability—or who may
have dissented from the resolution or act by which the 196
same was contracted or created, may respectively exonerate themselves from being individually liable, by
entering, if present, their dissent on the Books of the
Bank, at the time the debt may be so contracted, and
forthwith give notice of the same to the Comptroller of
the State.

Art. 7. In case of vacancy, occasioned by the death, 197 resignation or removal out of the State or otherwise, of any director, a majority of the directors shall fill such vacancy, and the director so appointed shall hold his office during the unexpired term of the director so vacating; and in case of sickness or necessary absence of the president, the board may appoint a president for the time.

Art. 8. The directors shall keep fair and regular minutes of their proceedings, in a well-bound book, and
198 on questions where two directors shall request it, the yeas and nays shall be ordered; and on all such questions, every member present shall be required to vote; and these minutes shall at all times be produced on the demand of the Legislature, or any committee legally authorized to require the same.

Art. 9. Every president and cashier, before he enters on the execution of his duty, shall give bond with two or more securities, to the satisfaction of the directors,
199 payable to the Governor of the State, in a sum not less than one hundred thousand dollars, conditioned for the faithful performance of his duty; and the tellers and clerks shall give like security in a sum not less than twenty thousand dollars, which bonds shall be filed and recorded in the Secretary's office.

Art. 10. The president, directors and cashier, and all other officers of the principal Bank and branches, shall take and subscribe the following oath, on entering on the duties of their respective offices: "I, A. B., do
200 solemnly swear or affirm, that I will faithfully discharge the trust reposed in me as   of the Bank of Tennessee, and that I will not willfully or knowingly violate any direction or provision of the charter thereof, So help me God."

Art. 11. All bills, bonds and notes of the corporation, shall be signed by the president and countersigned by the cashier thereof, and the fund of the Bank shall

in no wise be held responsible therefor, unless the same 201
shall be executed as aforesaid.

Art. 12. The bills or notes which it shall be lawful for said corporation to issue and circulate, shall not be for a less denomination than five dollars, and after the first day of January 1841, not less than ten dollars.

Art. 13. The board of directors shall be capable of exercising such other powers and authorities as may be
necessary for the well governing and ordering the 202
affairs of the said corporation, and of promoting its interests and credit.

Sec. 10. *Be it enacted*, That the bils obligatory or of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as to absolutely transfer and vest
the property thereof in each and every assignee or 203
assignees successively, and to enable such assignee or assignees, to bring and maintain an action thereupon in his, her or their name or names, and bills or notes which may be assigned by order of the said corporation, signed by the president and countersigned by the cashier thereof, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the
same in like manner and with the like force and effect 204
as upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say, those which are or shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner as foreign bills of exchange now

205 are, and those which are or shall be payable to bearer,
shall be negotiable and assignable by delivery only.

Sec. 11. *Be it enacted*, That it shall be the duty of
the president and directors of the principal bank and
branches, to furnish to the General Assembly, within
the first week of every regular session, statements of
the amount of the capital stock of said corporation,
and of the debts due the same, of the moneys deposited
therein, of the notes in circulation, and of the cash on
206 hand, together with all other property of said Bank,
both real and personal, and the General Assembly shall
have the right to inspect all such accounts in the Bank
as relates to the transactions of said principal Bank
and branches, and shall, whenever it may be deemed
necessary, appoint a joint committee of both houses of
the General Assembly for that purpose, with full
power to send for persons and papers; and it shall be
the duty of the Comptroller to inspect all accounts in
the books of the principal Bank and branches, as often
207 as he may please; and it shall and is hereby declared
to be his duty, faithfully to report all and every violation
of the fundamental rules of this corporation to
the Legislature.

Sec. 12. *Be it enacted*, That the bills or notes of the
said corporation, originally made payable, or which
shall have become payable on demand, in gold or silver
coin, shall be receivable at the treasury of this State,
and by all tax collectors and other public officers, in all
payments for taxes, or other moneys due the State.
208

Sec. 13. *Be it enacted*, That a majority of the members
present, at any regular meeting of the directors of
the principal Bank and branches may suspend any
director with a view to his expulsion, and any member
may be expelled, at a meeting of the board of directors
specially convened by the president for that purpose,
as soon after such suspension takes place as practicable;
but such expulsion shall not be made by a ma-

jority of less than two thirds of the whole number of directors. 209

SEC. 14. *Be it enacted*, That it shall be the duty of the Comptroller to make a biennial report to the Legislature on the subject of the principal Bank and branches, and if in his opinion the transactions of the principal Bank and branches, or any particular circumstance relating thereto, shall require it, he shall apply to the General Assembly for a select committee, who shall take into consideration any matters relating 210 to the principal Bank and branches, submitted to them by the Comptroller, and report thereon, at the discretion of the Legislature; and the Comptroller shall be furnished by the principal Bank and branches, with a general statement of their condition once in every month.

SEC. 15. *Be it enacted*, That it shall be the duty of the president and directors of the Bank, to publish quarterly in some newspaper, the state and condition 211 of the Bank and its branches.

SEC. 16. *Be it enacted*, That if any president, director, or cashier, or other officers of the said Bank, or any of its branches, shall embezzle, or fraudulently convert to his or to their own use, any sum of money, bank note, bill of exchange, check, bond, or other security, placed under his care and management, the person so offending, his aiders, abettors, and counsellors, upon conviction thereof, shall be judged guilty of felony, and be sentenced to imprisonment in the State 212 Penitentiary, for a term of not less than three years, nor more than twenty-one years, the term to be fixed at the discretion of the jury trying the said offence, and shall forever thereafter be disqualified from holding any office of profit or trust in this State, and shall moreover be liable for the sum embezzled.

SEC. 17. *Be it enacted*, That the sums discounted

213 on notes, with two or more sufficient securities, as provided for by this act, shall be apportioned, as far as practicable, among the several counties in this State, annually, in proportion to the qualified voters, and the president and cashier of the Bank or branch, shall give notice in some public paper printed in the county in which the Bank or branch may be located, stating the amount that each county may be entitled to borrow, within ten days after the right to borrow in manner aforesaid may arise; and should the sum or any part
214 thereof, to which any county should be thus entitled, be not applied for within fifteen days after such notice, by the inhabitants thereof, by presenting bills or notes for discount, with good endorsers, then it may be discounted as aforesaid, to any person or persons applying for the same. The principal Bank and three branches shall be located in Middle Tennessee, two branches of the said Bank in the Western District, and two branches in East Tennessee.

215 Sec. 18. *Be it enacted*, That the lands, tenements and hereditaments which it may be lawful for said corporation to hold, shall be only such as shall be requisite for its immediate accommodation for the transaction of its business, and such as have been *bona fide* mortgaged to it by way of security for, or conveyed to it in satisfaction of debts previously contracted in the course of ordinary banking business, or purchased at sales upon judgments or decrees rendered in favor of said Bank.

216 Sec. 19. *Be it enacted*, That it shall be the duty of the Governor, as soon as the directors are appointed of the principal Bank and branches, to convene the several boards of the same by advertisement in some newspaper, giving ten days notice thereof, at the place the Bank or branch may be located, for the purpose of carrying this act into effect.

Sec. 20. *Be it enacted*, That whenever the president and directors of any company incorporated for the purpose of internal improvement, shall negotiate any bonds executed under the provisions of this act, it shall be their duty to notify the president and directors of the Bank, of the place at which the interest on said bonds is stipulated to be paid, which shall be within the limits of the United States, and the president and directors of the Bank shall provide for the payment of the interest aforesaid, out of the dividends of the Bank; *Provided*, that if there shall be a surplus of the dividends, after setting apart the amount appropriated to common schools and academies, and after paying the interest on the bonds of the State, the same shall be held by the Bank as a contingent fund, to be appropriated at any time when there may occur a deficiency in the dividends for the purposes aforesaid; *And provided also*, that if at any time there shall be a deficiency in the dividends to liquidate the accruing interest on the State bonds, and the contingent fund shall be insufficient for such purpose, such deficiency shall be made up out of any uninvested dividends that may have been declared on the stock owned by the State, in the several works of internal improvement: and if there should still be a deficiency, the same shall be made up by the individual stockholders of the several roads in which the State has subscribed for stock in proportion to the amount for which the State may have issued her bonds in each, the amount so paid by the several companies to be reimbursed out of the first dividends declared in favor of the State on her stock in said companies. In the event the dividends of the Bank and the profits arising from the stock of the State in internal improvements shall prove insufficient to liquidate the interest on the bonds of the State issued for the purpose of internal improvement, it shall be the duty of the Governor to notify the president and directors of such companies in which the State has subscribed for stock, at least three months before the interest will become payable on the State's bonds of the

217

218

219

220

probable deficit, and of the amount which will be required of each company to be paid in order to meet the interest on the bonds of the State, and upon receiving such notice from the Governor, it shall be the duty of the president and directors of each and every company thus notified, forthwith to make a call upon the individual stockholders, for an amount equal to the sum claimed by the Governor, in his notice to said companies, which sum or sums of money shall be paid at the time, place, and manner required by the Governor, and upon failure thereof, by any of said companies, to meet the instalment thus required, it shall be deemed and taken to be a forfeiture of the interest of the individual stockholder or stockholders thus failing to pay the instalment called for by the Governor; and *Provided further*, that no State bonds shall be issued for the payment of State stock, in works of internal improvement, under the provisions of this act, until the Bank hereby established shall go into operation.

SEC. 21. *Be it enacted*, That the State of Tennessee shall become a subscriber for one-half of the capital stock in all railroads, McAdamized turnpikes, graded turnpikes and sanded turnpikes, for which acts of incorporation have heretofore been granted, or for which acts of incorporation may be hereafter granted, *Provided*, that the subscription on the part of the State shall not exceed an average of three thousand dollars per mile in any company for McAdamized turnpikes, nor shall it exceed one thousand dollars per mile on graded turnpikes, nor seven hundred and fifty dollars per mile on sanded turnpikes; *Provided also*, the subscription by the State to the Charleston and Cincinnati Railroad, and the Hiawassee Railroad, shall not exceed one million three hundred thousand dollars, to be equally divided between them, and to be expended within the State of Tennessee.

SEC. 22. *Be it enacted*, That whenever the Governor 225
shall be notified in writing by the president and
directors of any company, for the construction of railroads,
McAdamized turnpikes, graded turnpikes, or
sanded turnpikes, that one-half of the capital stock of
said company has been subscribed for, thereupon the
Governor shall appoint a number of directors, not to
be stockholders, equal to the number elected by individual
stockholders, and if in the opinion of two-thirds
of said entire board, the payment is well secured by
the individual stockholders, or that the individual 226
stockholders are good and solvent persons, and fully
able to pay the amount of stock subscribed for by
each of them, and that they have paid ten per cent.
upon the stock, the Governor of the State is hereby
authorized and empowered, and required to subscribe
on behalf of the State for the amount provided for in
the foregoing section; and from the date of subscription
by the Governor, the State shall have a lien
upon the property of each individual stockholder, to
the amount of the stock owned by each, and upon the 227
failure of any stockholder to pay any subsequent instalment
after the first, such failure shall not operate as
a forfeiture of the stock, unless the president and
directors shall so agree, but payment shall be enforced
by the president and directors, and no transfer or
assignment of stock shall defeat the said lien;
Provided, that said lien shall cease after the individual
stockholders shall have paid in one-half their stock.

SEC. 23. *Be it enacted*, That whenever the individual 228
stockholders of any of the said companies in which the
State has become a stockholder under this act shall have
paid five per cent. in addition to the ten per cent. heretofore
provided to be paid, making fifteen per cent. upon the
amount of their stock, and the president and directors of
such company shall notify the Governor of that fact, he is
hereby authorized and required to issue the bonds of
the State, signed officially by him and countersigned by

229 the Secretary of State, with the seal of the State, pay-
able thirty years after execution, and bearing an inter-
est of five per cent. per annum, payable semi-annually
at the office of the Treasurer of Tennessee, or such
other places as the president and directors negotiating
the same may designate, for an amount equal to fifteen
per cent. the stock subscribed by the State in said
company, and deliver said bonds to the president and
directors of said company, in full payment of fifteen
per cent. of the State subscription. And upon the
230 further payment of fifteen per cent. upon the stock of
individual stockholders in any of said companies, the
Governor shall issue the bonds of the State for fifteen
per cent. more of the stock of the State, in the same
manner, and under the same rules, regulations and re-
strictions as hereinbefore provided; and upon the
further payment of five per cent. or more upon the
stock of individual stockholders, the Governor is
authorized and required to issue the bonds of the State
for the like proportion of the stock due by the State,
231 under the same rules, regulations and restrictions as
before. And in like manner the amounts paid by in-
dividuals and the State, at the several subsequent calls
shall be equal, until the whole amount required to
complete the work is paid in; and from time to time
he shall take the receipts of the president and directors
for the several sums as paid. So soon as the president
and directors of the Louisville, Cincinnati and Charles-
ton Railroad Company, shall certify to the Governor
of the State, that the stockholders of said company
232 have paid in five per cent. on their stocks, the Gover-
nor of the State shall subscribe on behalf of the State,
six hundred and fifty thousand dollars in stock in said
company, and shall issue bonds of the State to said
company for five per cent. on the State stock so sub-
scribed, subject nevertheless to the conditions herein-
after provided. And as soon as the president and
directors of the Louisville, Cincinnati and Charleston
Railroad Company, or a board of directors appointed

by said company, to construct that part of the road 233
lying within the limits of Tennessee, shall certify to the Governor that a sum has been paid in for the construction of said road within the limits of Tennessee, by individual stockholders upon their stock, equal in amount to fifteen per cent. upon the amount to be subscribed by the State, the Governor shall execute the bonds of the State to said company for the amount of fifteen per cent. of the six hundred and fifty thousand dollars of stock to be subscribed by the State. And
whenever individual stockholders in said road shall 234
have paid in a further sum upon their stock, equal in amount to fifteen per cent. upon the stock subscribed by the State, the Governor shall issue the bonds of the State for fifteen per cent. of the remaining stock of the State; and upon the further payment by individual stockholders of an amount equal to five per cent. or more on stock subscribed by the State, the Governor shall issue bonds for five per cent. or more of the State stock, and so on in like proportion, until the whole amount is is-
sued, all of which is to be laid out within the limits of 235
the State. And whenever the president and directors of the Hiwassee Railroad Company shall notify the Governor in writing, of the amount of stock subscribed by individuals in said company, the Governor shall subscribe for an equal amount of State stock; *Provided*, such amount does not exceed six hundred and fifty thousand dollars, subject to the same rules as to issuing the bonds of the State as is pointed out by this Act for the government of other railroads and Mc-
Adamized turnpike companies; *Provided*, that if the 236
six hundred and fifty thousand dollars should not be subscribed by individuals for stock in said company, and a certificate of that fact made out to the Governor on or before the first day of October next, agreeably to the provisions of this Act, so as to authorize the Governor to subscribe for the full amount of the six hundred and fifty thousand dollars in said company, the Governor shall subscribe for an equal amount of stock in said

237 road, as is or shall be subscribed by individuals, and certified, as is directed by the 21st and 22d sections of this Act, and the remainder of the six hundred and fifty thousand dollars shall be subscribed by the Governor to any McAdamized sanded or graded turnpike company in East Tennessee that shall bring themselves within the provisions of this Act. And the Governor is hereby authorized from time to time, to constitute and appoint proxies to vote for directors in said Louisville, Cincinnati and Charleston Railroad Com-
238 pany, and such proxies shall give all other votes he may be authorized to do by virtue of such appointment agreeable to the provisions of said charter. *And provided further*, that if the Louisville, Cincinnati and Charleston Railroad Company, or the Hiwassee Railroad Company, or either of them, shall fail to obtain the subscription on the part of the State on or before the first day of January 1839, then and in that case, it shall be the duty of the Governor to subscribe for stock in such turnpike roads in East Tennessee as may bring
239 themselves within the general provisions of this Act.

Sec. 24. *Be it enacted*, That the State of Tennessee shall have a lien on the entire works of said companies respectively, for the amount so paid in by the State. And in all, the profits, rents, and tolls of said companies shall inure to the benefit of the State, until individual stockholders shall have paid in their entire stock in said companies respectively; *Provided*, the right and lien on the part of the State to the entire
240 profits, rents and tolls of the said several works, shall not inure until twelve months after the execution of the bonds of the State, for the last instalment on her stock as aforesaid, and then only to the extent of that portion of the individual stockholders who have not paid up the entire amount of their stock, and to remain no longer than said defaulting stockholders fail to pay the same.

Sec. 25. *Be it enacted*, That the stock to be taken 241
by the State in the several improvements, shall not
exceed four millions of dollars, to wit: one million
four hundred thousand dollars in East Tennessee, one
million six hundred thousand dollars in Middle
Tennessee, and one million of dollars in the Western
District; *Provided*, that one hundred thousand dollars
shall be raised upon the bonds of the State, and be
expended as a portion of the fund allotted to
East Tennessee upon the rivers in East Ten-
nessee, as the General Assembly may hereafter 242
direct; and provided also, that one hundred
thousand dollars of the fund allotted to the Western
District of Tennessee, be expended upon the rivers in
that part of the State, as the General Assembly may
hereafter direct; and provided, that one hundred thou-
sand dollars of the fund allotted to Middle Tennessee
shall be appropriated to the rivers of Middle Ten-
nessee.

Sec. 26. *Be it enacted*, That the profit arising upon 243 the stock owned by the State in the several works of internal improvement, shall constitute a fund to be applied to the redemption of the bonds of the State executed and to be executed for raising the Bank capital herein provided for, and the internal improvement bonds of the State.

JOHN COCKE,
Speaker of the House of Representatives.
TERRY H. CAHAL,
Speaker of the Senate. 244

Passed January 19th, 1838.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an Act of the General Assembly of the State of Tennessee passed January 19th, 1838, the original of which is now on record in my office.

245 *In testimony whereof*, I have hereunto subscribed my Official Signature, and by order of the Governor, affixed the
[L.S.] Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 19th day of July, A. D., 1879.

CHAS. N. GIBBS,
Secretary of State.

246

AN ACT *to amend the Internal Improvement Act, Chapter* 151, *passed February* 11, 1852.

§ 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of each railroad company, to whom has been issued the bonds of the State, at least fifteen days before the interest
247 becomes due, from time to time to pay the amount of such interest, including exchange and necessary commissions to the Comptroller of the State.

§ 2. *Be it further enacted*, That any railroad company failing to comply with this Act shall be subject to all the provisions of Section 1101 of the Code.

§ 3. *Be it further enacted*, That this Act shall take effect and be in force from and after its passage.

248 F. S. ROGERS,
Speaker of the House of Representatives.

D. W. C. SENTER,
Speaker of the Senate.

Passed January 26th, 1869.

I, C. N, GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an Act of the General Assembly of the State of Tennessee, passed January 26, 1869, the original of which is now on record in my office. 249

In testimony whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July, A.D., 1879.

[L.S.]

CHAS. N. GIBBS, 250
Secretary of State.

AN ACT *to amend an Act entitled "An Act to establish a system of Internal Improvement in the State," passed the* 11*th of February*, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Act aforesaid be so 251 amended that the Governor of the State be authorized and instructed to issue the six per cent. coupon Bonds of the State, similar in character in every respect to the Bonds issued under the Act that this is intended to amend, and maturing at the same time, to an amount sufficient to pay off all the Bonds and interest past due, as well as that to fall due January 1st, 1866, or on any Bonds that may fall due during the year 1867, issued or indorsed by the State, that were issued or indorsed previous to the so-called Act of Secession, passed the 252 6th day of May, 1861.

SEC. 2. *Be it enacted*, That said Bonds shall be dated the 1st of January, 1866, and be payable on the 1st day of January, 1892.

SEC. 3. *Be it enacted*, That said bonds shall in no event be sold, exchanged or negotiated at less than their par

253 value, but they may be exchanged for the interest coupon bonds hereby provided to be paid, estimating each at their par value.

Sec. 4. *Be it enacted*, That the amount of interest now due, or that may become due by January 1st, 1866, by any railroad company to the State on bonds issued to or endorsed for said company, shall be charged up to said company on the same terms and conditions of the original loan under the law this is intended to 254 amend, and the State shall have the liens upon each of said roads, their franchises and property for the prompt and faithful payment of the principal and interest of the bonds hereby authorized to be issued to pay the interest on the bonds said company should have paid interest on, or it has under the law this is intended to amend, for the bonds issued under that law.

Sec. 5. *Be it enacted*, That the several railroad companies receiving aid under this Act, shall pay the interest on said bonds, as it matures in the same manner 255 and under the same rules, regulations and restrictions, as they are now required to pay on the bonds issued or endorsed for them under the Act this is intended to amend, commencing the payment of said interest on the 15th day of June, 1866.

Sec. 6. *Be it enacted*, That the law now requiring all railroad companies of this State to pay into the Treasury 2½ per cent. per annum as a sinking fund, on the amount of their indebtedness to the State, be, and 256 the same is hereby suspended until January 1st, 1867, and said companies are relieved from the payment of the sinking fund now past due under said law.

Sec. 7. *Be it enacted*, That each and every railroad company in this State who have or may receive aid under this Act, or the Act this is intended to amend, or any amendment thereto shall pay to the Treasurer of the State during the

257 year 1867, four per cent. on the amount of its indebtedness to the State, as a sinking fund on said debt, to be paid in the bonds of the State of a like character to those issued or endorsed for said Company, with the coupons on the same that have not matured, said payment to be made semi-annually, on the first of April and October, and a like amount every year thereafter until the whole of their indebtedness is discharged.

258 SEC. 8. *Be it enacted*, That the Governor of the State shall, through the proper State officers, or by himself, or through such other agent or agents as he may appoint for the purpose, have the bonds hereby provided to be issued negotiated, and the proceeds of the same applied to the payment of the interest now due, or to fall due January 1st, 1866, on all bonds issued or endorsed by the State hereinbefore provided, or exchange said bonds with the holders of said coupons, so as to pay and liquidate said interest.

259 SEC. 9. *Be it enacted*, That the expense of issuing and negotiating said bonds shall be paid out of any money now in the Treasury not otherwise appropriated, and the same shall be collected from the amount issued for the benefit of said companies *pro rata*.

SEC. 10. *Be it enacted*, That any railroad company
receiving aid under this Act or the Act this is intended
to amend, or any amendment thereto, who shall dis-
criminate in their freight or passenger tariff against
the business of any city or town or place in this State, 260
or carry freight lower in one direction than another,
or refuse to give the citizens of this State equal facili-
ties for transporting their freight to or from any point
they may desire, to ship to or from the citizens of any
other State, whether the act be committed within the
limits of this State or not, shall, upon conviction, be
fined in the sum of not less than one thousand dollars,
nor over five thousand dollars for each and every of-

261 fence, the same to be collected as other fines and forfeitures are collected, one-half of the same to go to the State and the other half to the party aggrieved.

SEC. 11. *Be it enacted*, That when the principal officers of the company do not reside in, and have a permanent office in this State, it shall be competent and lawful to serve notice on any agent of said Company who does reside in the State, in any suit brought under the provisions of this Act.

262 WILLIAM HEISKELL,
Speaker of the House of Representatives.
JOSHUA B. FRIERSON,
Speaker of the Senate.

Passed November 23rd, 1865.
Chap. 9, p. 10, 186.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy 263 of an Act of the General Assembly of the State of Tennessee, passed November 23d, 1865, the original of which is now on file in my office.

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the great seal of the State of Tennessee, at the Department, in the city of Nashville, this 21st day of July A. D., 1879.

[L. S.]

264 CHAS. N. GIBBS,
Secretary of State.

CHAPTER 31.—Page 41. 265

AN ACT *to fix the time when an Act to amend an Act entitled, An Act to establish a system of Internal Improvements in this State, passed the eleventh of February*, 1852, *passed November 23d*, 1865, *shall take effect.*

§ 1. *Be it enacted by the General Assembly of the State of Tennessee*, That "An Act to amend an Act entitled an Act to establish a system of Internal Improvements in this State, passed the eleventh of February, 1852, passed November 23, 1865," shall take effect from and after its passage. 266

§ 2. *Be it further enacted*, that Section Twelve of the Act this is intended to amend be so amended that the duties required to be performed by the Governor shall be performed by the Comptroller.

WILLIAM HEISKELL,
Speaker of the House of Representatives, 267
JOSHUA B. FRIERSON,
Speaker of the Senate.

Passed February 27, 1866.

268

269 AN ACT *to amend an Act to establish a system of Internal Improvements.*

Passed, February 11, 1852.

Whereas the Memphis and Ohio Railroad, the Memphis, Clarksville and Louisville Railroad, the Edgefield and Kentucky Railroad, the Manchester and McMinnville Railroad, the Nashville and North Western Railroad, the Mississippi and Tennessee Railroad, the East Tennessee and Virginia Railroad, the Knoxville 270 and Kentucky Railroad, the Winchester and Alabama Railroad and the East Tennessee and Georgia Railroad are all out of repair, the bridges and trestles of said roads have been destroyed, and the companies are unable to put them in running order, and the State has a large interest in said roads, and it is to the interest of the State and the people of the State that the said roads should remain under their control and that they should be put in running order.

271 Therefore:

§ 1. Be it enacted by the General Assembly of the State of Tennessee that the Governor of the State be authorized and instructed to issue the bonds of the State bearing six per cent. interest with coupon attached, similar in character in every respect to the bonds issued under the Act this is intended to amend and maturing as hereinafter provided, in the following amounts and to the following Railroad Companies or Receivers 272 of such roads appointed by the Governor under the laws of this State, to wit:

To the Memphis and Ohio R. R. Co........	$300,000
" Memphis, Clarksville & Louisville R. R. Co........................	400,000
To the Edgefield & Kentucky Railroad......	115,000
" Manchester & McMinnville R. R. Co.	346,000
" Nashville & North Western R.R. Co.	300,000

273

To the	Mississippi & Tennessee R. R. Co....	50,000
"	East Tennessee & Virginia R. R. Co.	300,000
"	Knoxville & Kentucky R. R. Co....	250,000
"	Winchester & Alabama R. R. Co....	250,000
"	East Tennessee & Georgia R. R. Co..	250,000
"	Mississippi Central R. R. Co........	200,000
"	Memphis & Charleston Railroad.....	300,000
"	Rogersville & Jefferson Railroad....	100,000

Which bonds shall bear date January first, 1866, and be payable the first of January, 1892. 274

§ 2. Be it further enacted that the said bonds shall in no event be sold or exchanged at less than their par value.

§ 3. Be it further enacted that the proceeds of said bonds shall alone be used in building the bridges and repairing said roads and putting them in running order.

§ 4. Be it further enacted that each of said railroads to which relief is granted by this Act shall pay to the 275 Treasurer of the State as a Sinking Fund four per cent. on the amount of its indebtedness under this Act, as also the interest on said bonds, the Sinking Fund to commence the first of January, 1867, which shall constitute a fund for the payment of the bonds granted by this Act to said roads, and the said payment shall be made on the first of January of each and every year, and the State hereby reserves a lien on all the profits of said roads for the money hereby advanced for the repairing of the same which the State shall 276 have the right to enforce if the said companies shall fail to pay the four per cent. and interest as provided by this Act, and which shall be enforced, as now provided by law in the Internal Improvement Act of this State and which this act is intended to amend.

§ 5. Be it further enacted that bonds of the amount

277 of $125,000 be issued to the Nashville and Chattanooga Railroad Company for the completion of the Branch road from Bridgeport, Alabama, to Jasper, Tennessee, upon the same terms as provided by the foregoing act.

§ 6. Be it further enacted that the time of ten years be extended to all railroad Companies chartered and organized in this State to complete their roads, and the said roads shall have all the privileges and im-
278 munities guaranteed by their respective charters and the Internal Improvement laws of this State.

§ 7. Be it further enacted that the sum of $75,000 be and the same is hereby appropriated to the Southern Central Railroad for the purpose of assisting in paying for their bridge.

§ 8. Be it further enacted that the lien retained or declared in the fourth section of this act is hereby declared cumulative of and in addition to the lien declar-
279 ed in the Act of 1852, which this is intended to amend, which lien is hereby declared to extend to and cover the money or bonds to be advanced to said road under this act.

§ 9. Be it further enacted that this act shall take effect from and after its passage.

WILLIAM HEISKELL,
Speaker of the House of Representatives.

280 JOSHUA B. FRIERSON,
Speaker of the Senate.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an Act of the General Assembly of the State of Tennessee, passed January 18th, 1866, the original of which is now on record in my office.

In testimony whereof, I have hereunto signed my official signature, and, by order of the Governor, affixed the great seal of the State of Tennessee, at the Department, in the city of Nashville, this 21st day of July A. D., 1879. 281

[L. S.]

CHAS. N. GIBBS,
Secretary of State.

282

CHAPTER XXII.

AN ACT *to Amend An Act passed November* 23, 1865, *entitled* "*An Act to amend An Act entitled* '*An Act to establish a system of Internal Improvements in the State,*' *passed the* 11*th day of February*, 1852."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the year 1867, in sections 6 and 7, in An Act passed November 23, 1865, 283 entitled, "An Act to amend An Act, entitled 'An Act to establish a system of Internal Improvements in the State,' passed the 11th day of February, 1852," be, and the same is hereby changed to eighteen hundred and seventy.

SEC. 2. *Be it further enacted*, That this Act shall take effect from and after its passage.

J. S. MULLOY, 284
Speaker pro tem. of the House of Representatives.
JOSHUA B. FRIERSON,
Speaker of the Senate.

Passed February 18, 1867.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an act of the General Assembly of the State of Tennessee, 285 passed February 18, 1867, the original of which is now on record in my office.

In Testimony Whereof, I have hereunto subscribed my Official Signature, and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July, A. D. 1879.

[L. S.]

286 CHAS. N. GIBBS,
Secretary of State.

Chapter 69, page 87, laws of 1867-8.

AN ACT *to liquidate the debt of the State falling due in* 1868 *and* 1869.

287 § 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor, Secretary of State, Comptroller of the Treasury, and the President of the Bank of Tennessee, be and they are hereby made a Board of Finance, any three of whom may constitute a quorum for the transaction of business. Said Board shall elect one of its own members President, and may, if deemed necessary, elect a Secretary.

§ 2. *Be it enacted*, That it shall be the duty of the
288 President, if there should be no secretary, to keep a full record of the proceedings of said Board, and submit the same to the next General Assembly, together with a report of the indebtedness of the State and of all important matters relating to its financial affairs.

§ 3. *Be it further enacted*, That it shall be the duty of said Board to provide for the payment of the interest on the State bonds, and to provide for the payment of so much of the public debt of the State as may 289 require payment within three years from the passage of this act, and to enable the Board to perform this duty it may negotiate such loan as may be necessary, either by pledge or sale of bonds ; and it is hereby authorized to call upon the Governor for, and it shall be his duty to issue, the bonds of the State in sums of fifty dollars and upwards, bearing such rate of interest, not exceeding nine per cent., and the interest payable in such currency as the Board may deem best for the interest of the State. Said bonds may be made redeemable at the 290 pleasure of the State after five years from their date, but said bonds shall not be sold at less than par, and the funds received from the sale or loan of the bonds hereby authorized to be issued shall be exclusively applied to the payment of the bonds now outstanding or to the payment of the maturing interest thereon ; but under no circumstances shall the amount of bonds issued under authority of this act exceed the amount of outstanding bonds and interest concurrently paid off so that the aggregate bonded indebtedness of the State 291 shall not be in any degree increased.

§ 4. *Be it enacted*, That said Board shall have all the power heretofore conferred upon the Commissioner of Roads, and the Board may employ a competent civil engineer to examine the condition of any railroad in the State whenever any such examination may be made necessary ; and it shall be the duty of any railroad or railroad receiver in the State, whenever called upon to do so, to report to the Board the amount of the bonds of 292 the State in possession of the road, and in what manner any bonds loaned them by the State have been disposed of, and said board shall have the power to appoint an agent or agents to whom the bonds loaned to railroads may be disposed of. The board shall have supervisory power over receivers of railroads, and it shall be the duty of the board to require from receivers such bonds and reports as said

293 board may deem best for the interest of the State, and if such bonds are not made satisfactory to the board, or if the receiver should not perform his duties upon written notice thereof to him, his powers as receiver shall cease from the receipt of the notice. The board shall settle with all railroads and railroad receivers and turnpike companies, and examine into and settle the sinking fund account between all railroads of the State.

§ 5. *Be it enacted*, That it shall be the duty of each
294 railroad company at least fifteen days before each installment of interest of bonds issued to it becomes due, to deposit with the Comptroller of the State a sum of money sufficient to pay such interest, including exchange and necessary commissions, and when failing to comply with the above requirements, the road shall be subject to all the provisions of Section 1101 of the Code.

§ 6. *Be it enacted*, That guardians and all others having money in their hands in trust, are hereby author-
295 ised to invest the same in bonds that may be issued under this act; provided, that the bonds of the State that may be taken up under the provisions of this act, shall be cancelled and deposited in the Comptroller's office, and that the Secretary of State shall keep in a well bound book in his office a particular description of the date, number, amount, &c., of the bonds that may be issued under the provisions of this act, as well as those taken up and cancelled, and that all laws and parts of laws in conflict with the provisions of this act
296 are hereby repealed, and that this act take effect from and after its passage.

F. S. ROGERS,
Speaker of the House of Representatives.

D. W. C. SENTER,
Speaker of the Senate.

Passed March 13th, 1868.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an act of the General Assembly of the State of Tennessee, passed March 13, 1868, the original of which is now on record in my office.

In Testimony Whereof, I have hereunto subscribed my official signature, and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 19th day of July A. D., 1879.

[L. S.]

CHAS. N. GIBBS,
Secretary of State.

Chapter 3, page 4, Acts of 1869–70.

An Act *to change the mode of Appointing Receivers of Delinquent Railroads in this State.*

§ 1. *Be it enacted by the General Assembly of the State of Tennessee*, That where any railroad company in the State has failed, or may hereafter fail to pay the interest upon bonds loaned by this State to such road, under the provisions of law, and such fact shall be made known to the Governor by the Comptroller, the Governor shall at once notify the President of said railroad company to come forward and execute bond in the sum of one hundred thousand dollars, with a sufficient number of securities to equal at least two, possessing property in the aggregate, liable to execution, equal in value to the penalty of the bond, payable to the State of Tennessee, and conditioned for the faithful discharge of his duty as Receiver of the State, in the management in said first section, then the Governor shall forthwith appoint a suitable person, at the expense of the Company, as Receiver thereon, who, upon executing bond in the manner prescribed in the first section of this Act for President, shall be clothed with all the powers, and be subject to all the liabilities now imposed by law upon Receivers of deliquent railroads in the State, and he shall be entitled to receive for his services as Receiver, the same compensation which before that time had been paid to the President of said railroad Company: provided the same shall not exceed three thousand dollars per annum.

§ 3. *Be it enacted by the authority aforesaid,* That every President or other person appointed Receiver under authority of this Act shall make a report monthly to the Comptroller of the State, showing the amount of receipts and expenditures on said railroad for each month preceding; and pay over to the Treasurer of the State, upon the Comptroller's warrant, at the time of said report, all money which may or should be in his hands arising from said road, over and above the necessary repairs and expenses of operating and running said road.

§ 4. *Be it enacted by the authority aforesaid,* That every President or other person appointed Receiver by authority of this Act, who fails or refuses to make reports or pay over money as hereinbefore provided, shall, upon such fact being made known to the Governor, be dismissed from his office, and suit shall be at once instituted in the proper Court against him, and his securities upon his bond, for a breach of the conditions of said bond, and if his refusal to pay over is wilful, he shall be guilty of a high misdemeanor, and upon a conviction thereof in any Court having jurisdiction he shall be fined not less than one hundred dollars, nor more than one thousand dollars, and may be imprisoned not more than six months, at the discretion of the Court.

§ 5. *Be it enacted by the authority aforesaid*, That the Governor be, and he is hereby prohibited, from issuing the bonds of the State to any railroad Company in the hands of a Receiver. 305

§ 6. *Be it enacted by the authority aforesaid*, That all Receivers now appointed on railroads in this State be removed, and said roads be placed in the hands of the persons as provided in this Act, and that all laws coming in conflict with the provisions of this Act, be, and the same are hereby repealed. 306

§ 7. *Be it enacted by the authority aforesaid*, That this Act take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Passed October 26, 1869.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify, that the foregoing is a copy of an Act of the General Assembly of the State of Tennessee, passed October 26, 1869, the original of which is now on record in my office. 307

In Testimony Whereof, I have hereunto subscribed my Official Signature; and by order of the Governor affixed the Great Seal of the State of Tennessee [L. S.] at the Department in the City of Nashville, this 21st day of July, A. D. 1879. 308

CHAS. N. GIBBS,
Secretary of State.

309 AN ACT *directing suits to be brought in the name of the State of Tennessee by the Attorney General against Railroad Companies, their officers, agents and Stockholders.*

WHEREAS there has been information furnished the General Assembly that various railroad companies of this State, through their officers, have fraudulently obtained the issuance of the bonds of the State, and also have obtained other bonds contrary to the provisions
310 of the general internal improvement laws of the State. And the express provisions of the several Acts granting to them State aid and also have disposed of said bonds in direct violation of law, and also have illegally appropriated the proceeds to other uses than that prescribed by law, and that the interests of the State demand that suits should be instituted for redress in the name of the State, Therefore :

§ 1. *Be it enacted by the General Assembly of the*
311 *State of Tennessee*, That the Attorney General of this State shall, forthwith, in the name of the State, institute suits in the Chancery Courts of the county of the place of business of the Knoxville and Kentucky Railroad Company, of the Knoxville and Charleston Railroad Company, of the Rogersville and Jefferson Railroad Company, of the Mineral Home Railroad Company, of the East Tennessee and Western North Carolina Railroad Company, of the Southwestern Railroad Company, of the Edgeville and Kentucky Railroad
312 Company, of the McMinnville and Manchester Railroad Company, of the Memphis, Clarksville and Louisville Railroad Company, of the Nashville and Northwestern Railroad Company, of the Winchester and Alabama Railroad Company, of the Cincinnati, Cumberland Gap and Charleston Railroad Company, and against their Presidents, Directors, Agents and stockholders, and all other person or persons having had anything to do with the receipt or sale of any of the

bonds of the State, issued in aid of either or all of said 313
railroad companies enjoining said railroad companies,
their officers or agents, from disposing in any way of
any of the bonds in their possession, that may have
been issued to them, and also asking of the Court in
the final hearing, for a decree against said railroad
company, either or all of them, their officers, directors
and stockholders, for the full amount of all the bonds
of the State, that said railroad companies, or either of
them, their agents, officers, directors and stockholders,
have heretofore fraudulently obtained, contrary to the 314
true intent, meaning and provisions of the laws of this
State granting aid to railroads or to each one of said
railroad companies, or that have been illegally disposed
of by said railroad companies, their agents,
officers, President or directors, contrary to the law;
or after the proceeds were received, have appropriated
said proceeds to other uses than those prescribed by
law, and asking a decree against said railroad companies,
their President and Board of Directors and
against their stockholders individually and against 315
their agents for the number of bonds so fraudulently
received, for the number of bonds so illegally received,
for the number of bonds so illegally disposed of, and
for the amount of the proceeds of the bonds legally
issued, received and sold which has been illegally appropriated
by said railroad companies, or either of
them, their officers, agents, directors or stockholders,
or to any other use or uses than those prescribed by
law whether by the general internal improvement law
of the State, or by the special law granting to the respective 316
companies additional State aid, *provided* that
suits, shall in no case be instituted under this Act
against any railroad company by the said Attorney
General, except by, and with the consent, advice and
concurrence of the Commissioners appointed for the
sale of the delinquent railroads, viz: the Hon. R. J.
McKinney, the Hon. F. B. Fogg, and the Hon. Archi-

317 bald Wright, or by the consent, advice and concurrence
of a majority of said commissioners.

§ 2. *Be it further enacted*, That if, upon the trial of
said causes the Court shall be satisfied that said railroad
companies, or either of them, have been guilty of
fraudulently obtaining bonds of the State to be issued
to it, or of illegally inducing bonds of the State to be
issued to it, or of disposing of the bonds legally issued
to it contrary to the provisions of the law granting the
318 aid, or of appropriating to other use or uses than those
prescribed by law the proceeds of the bonds so sold,
or any of them; or of appropriating the bonds so received,
or any of them, to other uses than those for
which under the law granting the aid they or any of
them could be legally used, then, and in the event of
either of said facts being by the Court judicially determined
then the said Court shall decree that said railroad
company has forfeited all its rights and privileges
under the General Internal Improvement laws of the
319 State, and of the special laws under which the said
railroad company claims to have received said State aid
and against the President and Board of Directors of
said railroad companies, together with their stockholders
and their agents who disposed of said bonds
illegally, individually, for an amount sufficient to compensate
the State of Tennessee for any loss it may have
sustained, or that it may be liable to sustain because of
such fraudulent and illegal acts in regard to the receipt
and sale of said bond or bonds, and for losses
320 that may fall on the State in consequence of the commission
of any other fraud by said company in the
sale of said bonds against law and the misappropriation
of the proceeds.

§ 3. *Be it further enacted*, That the Attorney-General shall include in the bills respectively filed, all the charges contained in the 13th Section of the Act passed Feb. 11, 1852, entitled "An Act to establish a system of Internal Improvements in this State," and the Court in making its decree will, as far as the interests of the State demand it, observe the provisions of that Act, and make such decree as the law and evidence in each case justly demands. 321

§ 4. *Be it further enacted*, That the public welfare requires that this Act shall take effect from and after its passage.

Passed July 6, 1870.

W. O'N. PERKINS, 322
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

Disapproved July 9, 1870.

D. W. C. SENTER,
Governor.

Reconsidered and passed the Senate Dec. 20, 1870. 323

Passed over the veto of the Governor Jan. 18, 1871.

NEILL S. BROWN, Jr.,
Principal Clerk of the House of Representatives.

324

325 CHAPTER 224.

Page 335, Laws of 1851-2.

An Act *to Charter the Chattanooga, Blue Spring and Cleveland Railroad Company, and for other purposes.*

Sec. 1. Be it enacted by the General Assembly of
the State of Tennessee, That the formation of a com-
pany is hereby authorized for the purpose of con-
326 structing a railroad from Chattanooga to intersect
the East Tennessee and Georgia Railroad at or near
the Blue Spring, or at Cleveland, or any other suit-
able point south of that place on the East Tennessee
and Georgia Railroad in Bradley County, which com-
pany shall consist of the stockholders, and when
formed shall be a body corporate by the name and
style of the Chattanooga, Blue Spring and Cleveland
Railroad Company, and by such name, shall have and
enjoy, possess and exercise all the rights, powers,
327 privileges and franchises so far as the same are appli-
cable, which the Nashville and Chattanooga Railroad
Company have, by the terms of an Act passed 11th
December, 1845, entitled "an Act to incorporate the
Nashville and Chattanooga Railroad Company," and be
subject to the same liabilities and restrictions therein
imposed ; *Provided*, That the prohibiting against grant-
ing a Charter for any lateral or parallel road shall not
be applicable to this charter. *And provided further*,
That each share shall entitle the owner thereof to one
328 vote.

Sec. 2. The capital stock of said company shall be one hundred and sixty thousand dollars, to be divided into shares of fifty dollars each, and William Grant, William H. Tibbs, William K. Pickens, Henry B. Davis, G. B. Thompson, Robert Stuart, Caswell Lea, Joseph John Tucker, Caswell Hall, James Donohoe, Samuel Howard and Robert M. Swann, be hereby ap-

pointed a Board of Commissioners, who may, at such 329
times as they think proper, dispose of, or open books
for the subscription of said stock, and who shall, as to
this road, in all respects, have the powers and perform
the duties prescribed for the Board of Commissioners
of the Nashville and Chattanooga Railroad Company,
by the 4th section of the act aforesaid in relation
to that road.. And whenever the number of one
hundred and sixty shares shall be subscribed, the
company shall be considered as founded, as hav-
ing a corporate existence as aforesaid, and the 330
Board of Commissioners may proceed to survey the
route of the road and make an estimate of the cost of
its construction ; and when fifteen hundred shares shall
have been subscribed, the Board of Commissioners
shall appoint a time for the stockholders to meet at
Cleveland, for the purpose of electing a President and
six Directors to manage the affairs of the company.
The President shall be elected as the other directors
are, by direct vote of the stockholders.

331

SEC. 3. The Board of Directors may call for the payment of the stock subscribed, in sums not exceeding five dollars on the share, in every thirty days, and to enforce its payment the same remedy is given as in the act aforesaid.

SEC. 4. Be it enacted, That the Chattanooga,
Blue Spring and Cleveland Railroad Company is here-
by authorized and empowered to amalgamate its stock
with, or to transfer it to any railroad company whose 332
road connects therewith, which said amalgamation or
transfer shall carry with it all the rights, privileges
and benefits of said company, and any railroad com-
pany, whose road connects with said Chattanooga, Blue
Spring and Cleveland Railroad, is hereby authorized
and empowered to receive said amalgamation, assign-
ment or transfer of stock as aforesaid ; *provided,* the
same be done by the mutual consent of both companies.

333 Sec. 5. Be it enacted, That the act passed by the present General Assembly, entitled "An Act to aid in the completion of the East Tennessee and Georgia Railroad," be so amended, that the provisions of said act be made to extend to the abutments and embankments connected with said bridge, and also be amended, that upon the certificate of the Engineer, that one-fourth of the work in value on said bridge, has been completed according to contract, it shall be the duty of the Governor to issue $20,000 of said bonds to said
334 company, and upon a like certificate that one-half of said work has been completed, the Governor shall issue another $20,000 of said bonds, and upon a like certificate that three-fourths of said work has been completed, the Governor shall issue another $20,000 of said bonds, and upon a like certificate that the whole of said work has been fully completed, the Governor shall issue the remainder of said bonds, but in no event shall more than $100,000 in bonds be issued for said work.

335 Sec. 6. Be it further enacted, That said East Tennessee and Georgia Railroad Company shall procure *bona fide* good and solvent subscriptions in amount sufficent to grade, prepare the timbers, and prepare the whole line of road proposed to be constructed, ready for the reception of the iron, and these facts shall be certified to the Governor by the written affidavit of the President and Chief Engineer, and also by a majority of the directors before the Governor shall issue the bonds provided for in this act.

336

Sec. 7. Be it enacted, That when any railroad extends into this State from an adjoining State, and the President or head officer of said road resides beyond the limits of Tennessee, a right of action for the redress of any injury caused by, or for any claim or demand against the Corporation Company, proprietor or railroad, shall exist in this State, in any Court or Judicial tribunal having jurisdiction thereof, against such road, proprietor or company, and process may be served upon any depot agent of such road residing in this State, in the absence of the President or head officer of said road. And the judgment which may be rendered in favor of any claimant, shall be rendered against the company or road in the name by which it transacts its business, and the property real and personal belonging to such company or road, within the limits of this State, shall be liable to the satisfaction of said judgment. 337

SEC. 8. Be it further enacted, That no claim against such company or railroad shall be barred by any act of limitation of this State, for any cause of action which has arisen prior to the passage of this act, when the President or head officer of such road resides beyond the limits of this State. 338

JORDAN STOKES,
Speaker of the House of Representatives.

M. R. HILL, 339
Speaker of the Senate.

Passed February 26th, 1852.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an act, of the General Assembly of the State of Tennessee, passed February 26, 1852; the original of which is now on record in my office.

In Testimony Whereof I have hereunto subscribed my official signature, and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 19th day of July, A.D. 1879. 340

[L.S.]

CHAS. N. GIBBS,
Secretary of State.

341 An Act *for the benefit of the Rogersville and Jefferson Railroad.*

Sec. 1. Be it enacted by the General Assembly of the State of Tennessee, That whenever the Rogersville and Jefferson Railroad Company shall have taken an amount of good and solvent stock sufficient to grade the whole length of said railroad, and shall have graded said railroad and prepared for laying down the crossties thereon, and that fact being certified to the Governor of this State, in manner and form as now pre- 342
scribed by law for the railroad companies set forth in an Act of Assembly passed February 8, 1854, entitled "An Act to amend an Act, passed February 11, 1852, entitled "An Act to establish a system of Internal Improvements," it shall then be the duty of the Governor as aforesaid to issue to the President of said Railroad Company, coupon bonds of the State of Tennessee to the amount of two thousand dollars per mile, as provided for in the act referred to, passed February 8, 1854, for the purpose of purchasing and laying down 343
the iron rails on said railroad and placing the machinery thereon.

Sec. 2. Be it further enacted, That so soon as the first section of said road shall be put under contract with sufficient guaranties for the faithful performance thereof, it shall then be the duty of the President and Directors of said railroad, to let to contract the building of a bridge across the Holston river, for which they shall be entitled to the maximum amount allowed 344
for the building of bridges across rivers.

Sec. 3. Be it further enacted, That when the work of said bridge shall be let to contract, and one-third of the work done, they shall then be entitled in like manner, to receive one-fourth of the whole amount contracted to be paid for the building of said bridge, and when one other third of said work is done, except the laying of the irons, they shall be entitled to receive one

other fourth of the amount of said contract, and when 345
the whole of the work is done, except the laying of the irons, they shall then be entitled to receive the balance of the amount so due for the building of said bridge.

SEC. 5. Be it further enacted, That the said Rogersville and Jefferson Railroad Company shall be entitled to all the privileges and be subject to all the restrictions and liabilities, that the several railroads provided for in the act passed February 11, 1852, and the act 346
passed February 8, 1854, amendatory thereto, are severally subject to.

SEC. 6. Be it further enacted, That the said Railroad Company is hereby authorized and empowered, at its discretion, to commence said road at Rogersville and run it so as to connect with the Cincinnati, Cumberland Gap and Charleston Railroad, by intersecting the said Road at some point on said road between Clinch Mountain and Holston River, if the said Company after a survey of the different routes, believe it practicable and for the public interest. 347

SEC. 7. Be it further enacted, That the Rogersville and Jefferson Railroad is hereby declared to be a branch road of the East Tennessee and Virginia Railroad: Provided, That nothing contained in this act shall be so construed as to weaken the legal claims of the East Tennessee and Virginia Railroad heretofore granted, or in any way conflict in interest with the said road.

348

SEC. 8. Be it further enacted, That the President and Directors of the Jefferson and Rogersville Railroad shall, after the expiration of five years from the issuance of the bonds of the State for the ironing and equiping said railroad and building said bridge, shall set apart and pay into the Treasury two per centum per annum on the whole amount of the bonds issued for the benefit of said road as a sinking fund to be invested

349 and is, invested in State bonds as other stocks as provided for by law for the purpose of liquidating and paying off said bonds as they fall due.

NEILL S. BROWN,
Speaker of the House of Representatives.

EDWARD S. CHEATHAM,
Speaker of the Senate.

Passed February 20, 1856.

350

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an act of the General Assembly of the State of Tennessee passed February 20, 1856.

The original of which is on Record in my office.

351 [L. S.] In testimony whereof, I have hereunto subscribed my official signature; and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department of the City of Nashville, this 19th day of July, A.D. 1879.

CHAS. N. GIBBS,
Secretary of State.

352

AN ACT *to amend an Act entitled "An Act to establish a State Agricultural Bureau, etc., and for other purposes: and for the purposes of purchasing permanent Fair Grounds, and for other purposes."* 353

SEC. 1. Be it enacted by the General Assembly of the State of Tennessee, That the act entitled "An Act to establish a State Agricultural Bureau, etc., and for other purposes," be so amended, as that the State Biennial Agricultural Fair shall be held on the second 354 Monday in the month of October, in the City of Nashville, or vicinity. That section (10) ten be so amended that live animals and stock raised in other States, but owned by citizens in this State, may compete for premiums.

SEC. 2. Be it enacted, That so much of section (13) thirteen as compels the State Bureau to raise, by contribution of individuals, a sum of money, as a condition precedent to a receipt of the State bounty be, 355 and is hereby repealed, and that the State Bureau be entitled to receive said bounty therein specified, which said receipt of bounty shall relate to, and commence, and be in force from the period of the passage of this act establishing the State Agricultural Bureau, passed February 21, 1854, and ever annually thereafter; and that so much of section (14) fourteen as directs the appropriation of said bounty by the State Bureau be, and is hereby repealed, and that the Bureau shall make the appropriation of said bounty by way of premiums, 356 and for necessary expenses, under such rules and suggestions as are therein specified.

SEC. 3. Be it enacted, That section (20) twenty be so amended that the County Societies be entitled to receive hereafter the sum of ($200) two hundred dollars, as State bounty in the stead of ($50) fifty dollars, under restrictions therein specified: and that sections (22 and 26) twenty-second and twenty-sixth be amended by

357 striking out the words "at least" in each section respectively.

Sec. 4. Be it enacted, That hereafter the person or
persons to whom may be awarded upon live animals or
stock, before the close of the fairs, furnish to the Secretary
of the Bureau Division and County Fairs, a brief
and succinct history or pedigree, as far as practicable,
of the live animals or stocks upon which such premiums
shall have been awarded: and also shall upon the same
358 time and times furnish to the aforesaid officers, a brief
account of the mode of culture and manufacture of such
articles, upon which premiums shall have been awarded;
and a failure to comply with the above requisition shall
not entitle them to receive said premiums so awarded,
unless, from circumstances in the opinion of the Bureau
and members of the Division and County Fairs, of inability
so to do, may decide otherwise; and such histories,
pedigrees and brief accounts shall be embodied
in the reports as are now required to be made by the
359 existing laws.

Sec. 5. Be it further enacted, That there is hereby
appropriated out of the Treasury of the State, of
moneys not otherwise appropriated, the sum of
($1,000) one thousand dollars to each Division of the
State, for the purpose of purchasing movable fixtures
for the use of the Division Fairs; and that said purchase
shall be made by such person or persons as may
be chosen by the members of the Division Fairs, and the
360 same so appropriated shall be paid over to the
Commissioners respectively, as are by law elected
by the delegate members of the Division Fairs, upon
their filing in the Office of the Comptroller of the Treasury
a certificate signed by the Commissioners, specifying,
under oath, that the money is drawn for the purpose
of said purchase, and will be paid over as herein
directed, and a warrant shall issue for the same; and
said moveable fixtures, when so purchased and used

for the benefit of the Division fairs, after the termination 361
of said fairs shall be placed in the possession of
the Commissioners elect, to be securely kept and protected,
and to be delivered up to the officers of the succeeding
Division fairs, shows or exhibitions: *Provided
however*, that the appropriation herein made to each
Division of the State shall, in the event of the location
of the Division Fair, be by the delegate members applied
to aid in said location as is hereinafter provided.

SEC. 6. Be it further enacted, That the Governor of 362
the State be, and is hereby, authorized and directed to
issue coupon bonds of the State of Tennessee, bearing
an interest of six per centum per annum, payable semiannually
to the State Agricultural Bureau, to an
amount not exceeding thirty thousand dollars ($30,000).

SEC. 7. Be it enacted, That the bonds before specified
shall only be used for the purpose of purchasing
permanent Fair Grounds and erecting necessary
buildings and fixtures thereon, for the Biennial State
Agricultural Fair, to be located in or the vicinity of the 363
City of Nashville, under provisions hereinafter mentioned.

SEC. 8. Be it enacted, That it shall be the duty of
the State Agricultural Bureau to deposit in the Bank of
Tennessee, at Nashville, at least fifteen days before
the interest becomes due, from time to time, upon said
bonds issued as aforesaid, an amount sufficient to pay
such interest, including exchange and necessary commissions,
or satisfactory evidence that said interest has 364
been paid or provided for, and that at the end of five
years after the purchase and completion of said buildings
and fixtures, the said Bureau shall set apart one
per centum per annum upon the amount of bonds issued
to the Bureau out of the gate and entry fees, and shall
use the same in the purchase of bonds of the State of
Tennessee, which bonds the Bureau shall pay into the
Treasury of the State, after assigning them to the

365 Governor, and for which the Governor shall give said Bureau a receipt; and as between the State and Bureau the bonds so paid in shall be a credit on the bonds issued to the Bureau, and bonds so paid in, and the accruing interest thereon from time to time, shall be held and used by the State as a sinking fund for the payment of the bonds issued to the Bureau. And should said Bureau purchase any of the bonds issued to it under the provisions of this Act, they shall be a credit as aforesaid and cancelled.

366

SEC. 9. Be it enacted, That for the purpose of said Fair Grounds, there is hereby appointed out of the present General Assembly of the State of Tennessee, a Committee of five, three on the part of the House and two on the part of the Senate, appointed respectively by the Speaker of each body, which said Committee when so appointed, is hereby empowered and directed to visit, investigate and examine such tracts or parcels of land as, in the opinion of the Committee, will be
367 suitable and eligible for fair grounds, and to contract for the purchase of same, and the title bonds or deeds shall be taken in the name of the Tennesse State Agricultural Bureau.

SEC. 10. Be it further enacted, That section (27) twenty-seven of the Act passed February 21, A.D. 1854, establishing the State Agricultural Bureau, etc., be amended by appending an additional proviso, to wit: Provided further, that a majority of the de-
368 legate members present, as appointed under section (22) twenty-second of the aforesaid act to the succeeding Division Fair, show, or exhibition, shall in their discretion locate the Division show, or exhibition, which said location shall be permanent and decisive. And if in the event of said location, there is hereby appropriated out of the Treasury of the State, of moneys not otherwise appropriated, the sum of ($10,000) ten thousand dollars to each Division, for the

purpose of purchasing permanent Fair Grounds and 369
erecting necessary buildings and fixtures. And upon filing in the office of the Comptroller of the Treasury a certificate signed by the Commissioners as elected under section (29) twenty-nine of the Act establishing the State Agricultural Bureau, &c., specifying under oath, that the money is drawn for the purpose as aforesaid, and that it will be paid over to such officer or officers elected by the delegate members to receive the same, and a warrant shall be issued; and that when said
purchase has been made, the State of Tennessee shall 370
be invested with a lien and mortgage, without a deed from the delegate members, upon all the Fair Grounds and fixtures for which said money has been appropriated.

SEC. 11. Be it enacted, That the East Tennessee Agricultural Society organized under the Act entitled an Act to incorporate the Tennessee Agricultural Society, and for other purposes, passed December 18, 1851, is
hereby authorized and empowered to amalgamate with 371
the East Tennessee Division Fair, show, or exhibition, upon the condition of uniting their means with said Division Fair, to be represented by the election of three directors, vested with as full powers and privileges as are given to any three delegate members, representing any county entitled to representation in the Division Fair, show or exhibition, and when said amalgamation has been effected under conditions herein specified, the delegate members are hereby authorized and empowered to contract for and purchase the stock of the East 372
Tennessee Agricultural Society at no greater sum than par and upon such time and other terms as may be agreed upon by the parties.

NEILL S. BROWN,
Speaker of the House of Representatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

Passed February 18, 1856.

373 I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an act of the General Assembly of the State of Tennessee, passed February 18, 1856, the original of which is now on record in my office.

In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the
[L.S.] Great Seal of the State of Tennessee,
374 at the Department in the City of Nashville, this 19th day of July, A.D. 1879.

CHAS. N. GIBBS,
Secretary of State.

CHAPTER LVII.

375 AN ACT *to Regulate the Appointment of State Directors in Railroad Companies.*

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That all laws and parts of laws authorizing the Governor of the State to appoint State Directors in railroad companies having received State aid, be and the same are hereby repealed.

SEC. 2. *Be it further enacted,* That hereafter the Governor of the State, by and with the advice and con-
376 sent of the Senate, shall appoint, on the part of the State, in and for each railroad company that has received aid from the State in the construction of its road, a number of discreet men as Directors, who shall correspond in number with the amount of said aid, and shall bear the same proportion to such aid that the Directors of the company may bear to the interest of the stockholders; *Provided,* That the number of State Directors shall, in no case, exceed the number of Com-

pany Directors, nor in any instance be less than two; 377
and, provided further, That said appointments shall
be made so as to give each county as nearly as practi-
cable along the line of such railroad an equal and just
representation in such Board of Directors. The said
Directors shall hold their offices for two years after
confirmation and qualification; and the Directors so
appointed when confirmed, shall immediately enter upon
the discharge of their duties. That the Agent provi-
ded for in section second of An Act passed December
9, 1869, entitled An Act to accept, confirm, ratify and 378
make obligatory the lease of the Nashville and North-
western Railroad to the Nashville and Chattanooga
Railroad Company, shall not be appointed until the
Directors provided for in this Act shall be appointed
and confirmed, and a majority of them present at such
meeting of said Directors.

SEC. 3. *Be it further enacted*, That when any rail-
road shall have liquidated its indebtedness to the State,
the Governor shall not appoint Directors on the part of 379
the State for said railroad; and the duties of said offi-
cers at the time such indebtedness is liquidated, shall
cease.

SEC. 4. *Be it further enacted*, That no person shall be eligible to serve as State Director on more than one road at the same time.

SEC. 5. *Be it further enacted*, That it shall be the
duty of said Directors to attend the meetings of their
respective Boards, and watch over and protect the in- 380
terest of the State as far as practicable, in said rail-
roads.

SEC. 6. *Be it further enacted*, That it shall be the duty of the Governor to make such nominations immediately after the passage of this Act.

SEC. 7. *Be it further enacted*, That the Governor shall not appoint exceeding two Directors for the State, 381 for any railroad which has paid its interest upon bonds loaned to or indorsed for such road.

Sec. 8. *Be it further enacted*, That this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

382 Passed February 4, 1870.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an Act of the General Assembly of the State of Tennessee, passed February 4th, 1870, the original of which is now on record in my office.

383 [L.S.] *In testimony whereof*, I have hereunto subscribed my Official Signature; and by order of the Governor of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July, A.D., 1879.

CHAS. N. GIBBS,
Secretary of State.

---

384 CHAPTER LXVIII.

An Act *for the Relief of the Nashville and Decatur Railroad Company.*

Section. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Nashville and Decatur Railroad Company be and the same is hereby authorized to suspend the payment of the sinking fund until the first of January, 1872.

SEC. 2. *Be it further enacted*, That nothing in this 385
Act shall be so construed as to compel the Nashville and Decatur Railroad to pay the sinking fund accruing in the years 1870 and 1871, until the next day of maturity of said sinking fund, after January 1, 1872; *Provided*, that nothing in this Act shall be so construed as to release the road from ultimate payment of such sinking fund.

SEC. 3. *Be it further enacted*, That this Act take
effect from and after its passage. 386

W. O'N. PERKINS,
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

Passed February 22, 1870.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of
an Act of the General Assembly of the State of Ten- 387
nessee, passed February 22d, 1870, the original of which is now on file in my office.

In testimony whereof, I have hereunto subscribed my Official Signature; and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July A.D.,
1879. 388

CHAS. N. GIBBS,
Secretary of State.

389
CHAPTER LXXVII.

Laws of 1869–70.

An Act *to Fund the Floating Debt of the State.*

§ 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Comptroller of the Treasury shall fund the bonds of the State of Tennessee now due, or which may become due, on or before the first day of January, 1874, and the interest on the
390 public debt now due or which may become due on or before the first day of January, 1874, the bank notes of the Bank of Tennessee issued prior to the sixth day of May, 1861, and not declared void by the Amended Constitution of the State of Tennessee, and outstanding warrants on the Treasury, and to enable the Comptroller to perform the duty prescribed by this act, he is hereby authorized and required to call on the Governor of the State, and upon such demand the Governor of the State is hereby requested to cause to be issued to the
391 Comptroller of the Treasury bonds of the State of Tennessee with coupons attached, of denominations of not less than fifty dollars, redeemable by the State in not less than five or more than twenty years at the pleasure of the said Bank, interest at the rate of six per cent., payable semi-annually, at the office of the Comptroller of the Treasury, in the City of Nashville, provided the bonds so issued shall not exceed the sum of three millions of dollars, and shall only be sold at par, in funding as herein provided.

392

§ 2. *Be it further enacted,* That the bonds of the State of Tennessee, the interest coupons of the bonds of the State of Tennessee, the bank notes of the Bank of Tennessee, and the warrants on the Treasury that may be taken up and funded as provided for by this Act, shall be cancelled by the Comptroller and filed in a separate book, to be kept for that purpose only, and the Secretary of State shall keep in his office a particular description of the date, number and amounts of the bonds which may be issued by authority of this Act, and the Comptroller shall deposit in the office of the Secretary of State the bonds funded and cancelled by him, the coupons funded and cancelled, the warrants on the Treasury and the bank notes of the Bank after being funded and cancelled. All of which shall be recorded in the office of the Secretary of the State in a book provided for that purpose alone; *Provided* that the Comptroller of the Treasury, the Secretary of State, and the Governor, shall have and receive in compensation for the duties required to be performed by them under the provisions of this Act.

§ 3. *Be it further enacted*, That the amount of interest now due or that may fall due by the first day of January, 1872, to the State, on bonds issued to Railroad Companies, may be paid by said Companies in the bonds of the State or past due couponsas the said Companies may elect, and the Comptroller of the State is hereby authorized and instructed to receive said bonds or coupons in payment of said interest due to the State by said Railroad Companies; *Provided*, that no railroad company in this State shall be entitled to the provisions of this section unless they have paid or shall pay in cash fifty per cent. of the amount of interest due and owing to the State by such Railroad Companies on the first day of July, 1869.

§ 4. *Be it further enacted*, That this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

Passed February 24, 1870.

397 **An Act** *to amend an Act to Fund the Floating Debt of the State, passed February* 24, 1870.

p. 23. Laws of 1870-71.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That no railroad company shall hereafter be allowed to discharge the due interest of its indebtedness to the State in bonds or coupons of bonds, unless such payment is made in past due bonds or past due coupons of the bonds of the State of Tennessee. 398

Sec. 2. *Be it further enacted*, That any provisions in the Act to Fund the Floating Debt of the State, passed February 24, 1870, inconsistent with this Act, be, and the same is hereby repealed, so far as it applies to due interest; and that this Act take effect from and after its passage, the public welfare requiring it.

Passed December 16, 1870.

W. O'N. PERKINS,
399 *Speaker of the House of Representatives.*
D. B. THOMAS,
Speaker of the Senate.

Approved,

D. W. C. SENTER,
Governor.

---

400 ACT OF MARCH 7th, 1867.

An Act *to Amend the Charter of the Memphis and Charleston Railroad Company, and for other purposes.*

* * * * * * * * * * * *

Sec. 7. *Be it further enacted*, That the Governor shall appoint directors in each railroad company of this

State, in proportion to the amount of aid received by 401
said company, whether the aid has been received by the issuance of bonds of the State or endorsing bonds of the said railroad companies.

* * * * * * *

An Act *to amend the Internal Improvement laws of the State passed February* 11, 1852 402

Chapter 17, page 14, Acts of 1867-8.

Whereas, the Nashville and North Western Railroad Company has been but recently completed through to the Mississippi River,

And whereas, it was impossible for said road to make any profit during its course of completion,

403
And whereas, the interest upon the State Bonds has not been paid by said road in consequence of its unfinished condition,

And whereas, it is impossible to run said road with success without a large increase of rolling stock,

Therefore

§ 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor of the State be 404
authorized and directed to issue the bonds of the State bearing six per cent. interest, with coupons attached, similar in every respect to the bonds issued under the Act this is intended to amend to the Nashville and North Western Railroad Company $350,000.

§ 2. Be it further enacted, That the bonds of the State to be loaned by this Act shall be exclusively applied to the purchase of engines, rolling stock, etc., for

405 said road, and for the building of depot houses, work-
shops, and for iron for said tracks and necessary equip-
ments.

§ 3. Be it further enacted, That the sum of $800,000
be, and the same is hereby appropriated to the Knox-
ville and Kentucky Railroad Company, to the Cincin-
nati, Cumberland Gap and Charleston Railroad Com-
pany, $200,000, provided the directors of said roads shall
consist of nine, and the State be represented in said
406 company in proportion to the aid granted by the State,
with the exception that the directors on the part
of the stockholders shall not be reduced below
three, and the directors on the part of the State
shall have all the rights, privileges and powers
granted by the charter of said road to the directors
elected by the stockholders. Provided, however, that
the above shall be accepted by the company as an
amendment to the charter of said road before said bonds
shall be issued by the State. To the Winchester and
407 Alabama Railroad Company, $300,000; to the Nashville
and Decatur Railroad Company, $350,000.

§ 4. Be it further enacted, That the sum of $300,000 be, and is hereby appropriated to the South Western Railroad Company.

§ 5. Be it further enacted, That the sum of $300,000 be loaned to the Memphis and Charleston Railroad Company.

408 § 6. Be it further enacted, That the sum of $200,000
be loaned to the Mississippi Central Railroad Com-
pany.

§ 7. Be it further enacted, That the sum of $100,000 be loaned to the Mississippi and Tennessee Railroad Company.

§ 8. Be it further enacted, That the sum of $150,000 be, and is hereby appropriated to the Knoxville and Charleston Railroad Company.

§ 9. Be it further enacted, That the additional sum of 409
$5,000 per mile be and the same is hereby appropriated
to the Tennessee and Pacific Railroad Company, subjecting the company to the liabilities and restrictions imposed by the Internal Improvement Company of February, 1852.

§ 10. Be it further enacted, That the sum of $100,000 in State bonds be and the same is hereby appropriated to the East Tennessee and Western North Carolina Rail-
road Company for bridge building exclusively. 410

§ 11. Be it further enacted, That the Governor issue the bonds of the State to the extension of the Nashville and North Western Railroad from Huntington to Jackson, to the amount of $200,000.

§ 12. Be it further enacted, That the Governor is authorized and directed to issue to the Edgefield and Kentucky Railroad Company $300,000 in bonds of the State,
bearing six per cent. interest, the same as issued to the 411
other railroads, to be used and applied to the erection of a depot in Nashville, to the purchase of machinery, rolling stock, and repairs, and for the construction of the extension of said road to the coal mines under the charter of the Evansville, Henderson and Nashville Railroad, provided the said Evansville, Henderson and Nashville Railroad Company shall execute their bond and obligation to the State of Tennessee, binding said company to pay the principal and interest of the
amount of bonds used in the construction of said Evans- 412
ville, Henderson and Nashville Railroad, and issue to the State and deposit with the Governor the stock of said company to the amount of the bonds so used in the constructing of said road, and on the execution of said bond and obligation and said stock the Governor shall issue and deliver the bonds to the receiver or any such person as the Governor may appoint, on his executing a bond with security, to be approved by the Governor,

413 conditioned for the faithful and honest obligation and accounting for said bond.

§ 13. Be it further enacted, That the further sum of $50,000 be and is hereby appropriated to the East Tennessee and Virginia Railroad Company to rebuild depots at Russelville and Morristown and for other purposes.

§ 14. Be it further enacted, That when any railroad company shall accept the benefits of this loan 414 they shall accept the said directors also, and said directors shall be entitled to all the rights and privileges of other directors on said roads.

§ 15. Provided that if the said railroad companies or either of them, to whom the bonds of the State have been loaned by this act or former acts, shall fail for two consecutive years to pay the interest that may accrue upon the bonds loaned to them, severally, then and in that case the Governor, Secretary of State and Comp- 415 troller may at their discretion sell said railroad, track, rails, rolling stock, &c., upon such terms and conditions as they may deem best to secure the interest of the State, and shall retain of the proceeds of said sale the amounts loaned to said companies and the interest due on the same with expenses of said sale.

§ 16. Be it further enacted, That these loans shall be made in a like manner and under the same conditions imposed by the Internal Improvement laws of the 416 State.

§ 17. Be it further enacted, That this act shall take effect from and after its passage.

F. S. ROGERS,
Speaker of the House of Representatives.
D. W. C. SENTER,
Speaker of the Senate.

Passed December 7, 1867.

AN ACT *to aid in the completion of the East Tennessee and Georgia Railroad. Passed February* 4, 1852. 417

Chapter 89, p. 110, Laws of 1851-2.

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That for the purpose of aiding in the completion of the East Tennessee and Georgia Railroad, so soon as the Governor may be satisfied that a good, substantial and permanent bridge has been constructed and finished complete across the Tennessee
River, at or near Blair's ferry, ready for laying down 418
the iron rails thereon, to be begun, carried on and completed under the direction and superintendence of the engineer of said railroad, and to be perfected by him and accepted as finished, then and in that case it shall be the duty of the Governor to issue to said company coupon bonds of the State of Tennessee, sufficient to pay for the construction of said bridge. Provided, that he shall not issue more than one hundred thousand dollars in bonds as aforesaid for said object, and which
said bonds shall bear an interest of six per cent. per 419
annum, and have not less than thirty nor more than forty years to run to maturity.

SEC. 2. *Be it enacted*, That for the purpose of enabling the said company to raise a fund for the payment of the interest on said bonds, and also to pay the principal thereof at or before maturity, the said company are authorized and required to demand and receive from all passengers crossing said bridge in said railroad
cars, in addition to the regular charges, the further 420
sum of ten cents on each passenger, as bridge toll, and it shall be the duty of the said company to collect the said sum at the same time the regular passage money is collected and to render a monthly account thereof, and pay over monthly the said sum in some bank at Knoxville, taking the receipt of the Bank therefor, and the sum so deposited in Bank shall at all times be subject to the check of the Comptroller of the Treasury

421 for the payment of the interest on said bonds, and *any surplus after the payment of said interest shall be passed to the credit of the company in discharge of the principal due on* any one or more of said bonds. *Provided*, that as soon as the interest and principal of said bonds shall be paid, the said company shall be released from the exaction of said additional charge.

SEC. 3. *Be it enacted*, That the express conditions on which any bonds under this Act shall be issued to said 422 company are, that upon the issuance of said bonds the said railroad and bridge, with all the appurtenances thereto belonging and the interest of the individual stockholders therein, and the tolls, issues and profits of said road and bridge, shall be and is by force of this Act vested in the State for the security of the State against the payment of the bonds issued under this Act and the interest thereon, and the State is hereby declared to be vested with all the rights to have and hold upon the issuance of the bonds authorized by this 423 Act the entire road and bridge, and all the appurtenances thereto belonging, and all the tolls, issues and profits of the stock for the security of the payment of said bonds and the interest thereon accruing, as a mortgage to secure the payment of the same, and said road and all its appurtenances of every kind and description shall be subject to any law that has been or may hereafter be passed for the enforcement of mortgages in like cases.

424 SEC. 4. *Be it enacted*, That if the East Tennessee and Georgia Railroad Company shall not undertake to complete that road to Knoxville, the benefits of this Act shall enure to and be conferred upon any railroad company that will undertake the same and comply with the provisions of this Act.

SEC. 5. *Be it enacted*, That if the East Tennessee and Georgia Railroad Company, or any other company that will undertake to complete said road to Knoxville, shall locate said road on a different route than may make it necessary to construct a bridge across the Tennessee river at or near Blair's ferry, the provisions of this Act shall enure and apply to any bridge or bridges that may be constructed upon such other route, but in no case shall the amount of bonds to be issued exceed one hundred thousand dollars. 425

SEC. 6. *Be it enacted*, That no bridge or bridges to be constructed on said road shall obstruct the free navigation of any river or rivers. 426

JORDAN STOKES,
Speaker of the House of Representatives.

M. R. HILL,
Speaker of the Senate.

427

The Tennessee and Alabama Railroad Company's Sinking Fund Account.

No. of Bonds.		
	Dr. To Cash paid for	
1	East Tennessee and Georgia Railroad Company's Bond for $1,000 endorsed	$800 00
4	State 5½ per cent. bonds each $1,000	5,600 00
3	" 5 " " " " "	
		$6,400 00

428

Cr. Contra.		
By Cash 2 per cent. call	$6,000	
Interest on Bonds collected	210	
Balance	190	
	$6,400	$6,400

429 From the above it will be seen that $82,840.95 invested, with the accruing interest thereon, has purchased bonds amounting to $109,750, which pays an annual interest of $6,417.50 or 7¾ per cent. on the investment up to this time.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an extract from the Comptroller's Report to the Legislature of 1859-60, pages 59 and 60 of the printed copy of
430 the Legislative Journals of 1859-60, which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official Signature; and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July, A.D.1879.

[L. S.] CHAS. N. GIBBS,
431 *Secretary of State.*

State of Tennessee, }
Davidson County. }

I, Jno. C. Ferriss, sole presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate is now, and was at the time of signing the same, Secretary of State for the State of
432 Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand at Office, in Nashville this 22d day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, } 433
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferris, whose genuine signature appears to the foregoing certificate, is now, and was, at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

434

Witness my hand and seal of said Court, at office, this 22d day of July, 1879.

[L. S.] J. R. McCANN,
Clerk.

REPORT OF COMPTROLLER DUNLAP. 435

October, 1861.

By the Act of 20th March, 1860, Ch. 93, Sec. 5, the Companies or Corporations may pay said Sinking Fund in cash, or in the like character of bonds that may have been issued or endorsed by the State for said Company at their face or par value.

In compliance with the above Statute, the following Railroad Companies have paid their Sinking Fund Calls for 1860, as here stated : 436

Nashville and Chattanooga Railroad Company, Dr.,

To ½ of 2½ per cent. Call, due 1st April, 1860.	$18,750.00
" ½ of 2½ per cent. Call, due 1st October, 1860....................................	18,750.00
	$37,500.00

437 Cr.

By 25 of their Endorsed Bonds, $1,000.00 each	$25,000	
" 13 of their Endorsed Bonds, $1,000 each	13,000	
		$38,000.00

This Company has also paid into its Sinking Fund 22 of their Endorsed Bonds in anticipation of the next call.

438 East Tennessee and Virginia Railroad Company, Dr.,

To Semi-annual Call, due 1st April, 1860	$8,362.50
" " " 1st October, 1860	8,362.50
	$16,725.00

Cr.

By 15 of their Endorsed Bonds, for $1,000 each	$15,000	
" 2 Regular State Bonds for $1,000.00 each	2,000	
		17,000.00

439

East Tennessee and Georgia Railroad Company, Dr.,

To Semi-annual Call, due 1st April, 1860	$10,875.00
" " " 1st October, 1860	10,875.00
	$21,750.00

Cr.

440 By 22 of their Endorsed Bonds for $1,000 each	$22,000

Memphis and Charleston Railroad Company, Dr.,

To Semi-annual Call, due 1st April, 1860	$9,500.00
" " " 1st October, 1860	9,500.00
	$19,000.00

Cr. 441

By 16 State Bonds..................$16,000
" Cash.......... 2,960
———— $18,960.00

Memphis and Ohio Railroad Company, Dr.,

To Semi-annual Call, due 1st April, 1860 ... $5,750.00
" " " " 1st October, 1860. 5,750.00

$11,500.00

Cr. 442

By 6 State Bonds......................... $6,000.00

McMinnville and Manchester Railroad Company, Dr.,

To Semi-annual Call, due 1st April, 1860.... $4,000.00
" " " " 1st October, 1860.. 4,000.00

$8,000.00

Cr.

By 8 State Bonds........................ $8,000.00

443 Tennessee and Alabama Railroad Company, Dr.,

To Semi-annual Call, due 1st April, 1860.... $3,750.00
" " " " 1st October, 1860.. 3,750.00

$7,500.00

Cr.

By 7 State Bonds........................ $7,000.00

I, C. N. Gibbs, Secretary of State of the State of
Tennessee, do certify that the foregoing is a copy of an 444
Extract from page 54 of a printed pamphlet entitled,
Report of James T. Dunlap, Comptroller of the Treasury,
to the General Assembly of Tennessee, October,
1861, Nashville, Tennessee, J. O. Griffith, Camp & Co.,
Printers to the State, 1861, which is in possession of
the Comptroller.

In Testimony whereof, I have hereunto sub-

445 scribed my Official Signature; and, by order of the Governor, affixed the

[L. S.] Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County.

446 I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify that Charles N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

447 Given under my hand at Office, in Nashville, this 22d day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE,
Davidson County.

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferris, whose genuine signature appears to the foregoing certificate,
448 is now, and was, at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

Witness my hand and seal of said Court, at office, this 22d day of July, 1879.

J. R. MCCANN,
Clerk.

COMPTROLLER'S REPORT 449

To Legislature of 1851-2.

"On a preceding page will be found the amount paid into the State Treasury by each one of the Internal Improvement Companies on account of dividend of tolls and the amount of semi-annual dividends paid by the Bank of Tennessee.

The Bank of Tennessee acts as agent for the State Treasurer in paying the interest on such of the bonds of the State as are due and payable in the Northern 450 cities. In addition to the interest, the bank pays 1½ per cent. commission and exchange, and this amount is refunded by the Treasury of the State."

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an extract from the printed copy of the Comptroller's report to the Legislature of 1851-2, page 65, taken from the Legislative Journals of 1851-2, which is now of record in my office. 451

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the great seal of the State of Tennessee, at the Department in the city of Nashville, this 21st day of July, A. D. 1879.

[L. S.]

CHAS. N. GIBBS,
Secretary of State.

452

STATE OF TENNESSEE, }
Davidson County. }

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that

453 said attestation is in due form of law, and by the proper officer.

Given under my hand, at office, in Nashville,
this 22d day of July, 1879.
JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

454 I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate, is now, and was, at the time of signing the same, sole presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such, and that said attestation is in due form of law.

Witness my hand and seal of said Court, at
[L. S.] office, this 22d day of July, 1879.
455 J. R. McCANN,
Clerk.

ACT OF FEBRUARY 25TH, 1869.

An Act to Liquidate the State Debt, contracted in aid of Railroad Companies in the State of Tennessee.

456 Page 50, Laws of 1869–70.

Whereas, under the General Internal Improvement Laws of the State, passed from time to time, aid has been granted to various railroad companies by the loaning of six per cent. bonds of the State, to enable said companies to iron, equip, build, and bridge, and for other purposes, which is now secured to the State by a first mortgage or lien on the franchise, property and fixtures of respective railroad companies; and, Whereas, it is desirable for the general welfare of the State, that the State shall be reimbursed such amounts as have been advanced to the different railroad companies, as fast as may be practicable; therefore, 457

SECTION 1. Be it enacted, by the general assembly of the State of Tennessee, that the respective railroad companies, or either of them that have created indebtedness to the State, are hereby authorized to repay any amount of the principal of such indebtedness as they have respectively created in the bonds of the State, in 458
such amount, and at such times, as may be practicable; Provided, however, that nothing in this Act shall be so construed as to release said railroad companies from any lien which the State may have on the same for any unpaid interest now due on said bonds of the State authorized to be surrendered by this Act.

SEC. 2. Be it further enacted, That any railroad company or companies repaying any indebtedness due the State under the provisions of this act, are autho- 459
rized to issue bonds of equal amount and denomination with the bonds of the State paid and delivered up for cancellation, as hereinafter provided, which said railroad bonds, so issued in lien of any amount of State bonds, shall be certified to by the comptroller, entered in a book to be kept for that purpose with date, number and amount, and shall be a lien, *pro rata*, in amount and of equal validity and effect with the unretired part of the State indebtedness upon such railroad, and all its property, franchises, fixtures and material. 460

SEC. 3. Be it further enacted, That in order to facilitate the railroad companies, that may wish to avail themselves of the provisions of this act in paying the indebtedness due to the State, respectively, they, or any of them, are hereby authorized to consolidate their property, in whole or in part, with other railroad companies, and issue

461 bonds and stock as provided for in the 2nd section of
this act, and may adopt the corporate franchise of
either of the roads as the stockholders may elect, and
each railroad company paying its indebtedness, and
such railroad companies as may consolidate under the
provisions of this act, are hereby authorized to determine,
by a vote of the stockholders of said company or
consolidated companies, the number of directors of
such company, and elect the same under the new organization
and that the said directors, so elected, shall,
462 according to the by-laws and rules of said corporation,
elect one of their number president of said company.

Sec. 4. Be it further enacted, That the comptroller
of the State shall receive from the railroad companies,
or any of them, bonds of the State in such amounts as
may be presented, and cancel the same in the presence
of the officer or agent of the railroad company paying
them in, and execute to the said railroad company or
companies duplicate receipts for the amount and number
463 of said bonds so paid in, and it shall further be the
duty of the comptroller to certify on the bonds of any
railroad company or companies repaying indebtedness
due to the State, that the same has been paid, and that
the so-certified (bonds) are secured by first mortgage.

Provided, That said railroad companies shall liquidate
their indebtedness prior to the maturity of the
bonds that have caused said indebtedness; and be it
further provided, that said bonds, when executed by
464 the respective railroad companies or either of them,
shall be deposited with the comptroller of the State, whose
duty it shall be to deliver said bonds, or any number of
them, to the president and directors of the company,
on the deposit by said president and directors or authorized
agent of an equal amount of the six per cent.
bonds of the State of Tennessee, with unpaid coupons
attached, and the company's first mortgage bonds,
authorized to be issued by this act shall have no vali-

dity or value except the comptroller's certificate is affixed on the face of each bond, that said bond is executed, and issued and by virtue of law taken the place of a bond of the State and is the first mortgage bond. 465

SEC. 5. Be it further enacted, That the comptroller shall be entitled to a fee of one dollar on each thousand dollars of the bonds certified as aforesaid; to be paid by the railroad company for which the same is done; and it shall be lawful for the comptroller to discharge the duties imposed by this act, by and through an agent in the city of New York; and all the provisions of this act shall attach to and become a part of the charter of any railroad company or companies acting under it. 466

SEC. 6. Be it further enacted, That by and with the consent of the board of directors of any railroad company in this State under the General Improvement Law, passed the 11th of February, 1852, and all the amendments thereto, that any person or corporation may, by paying the indebtedness of such railroad company to the State in the bonds of the State, as provided for by law, be, and they are hereby substituted and entitled to all the liens against said company for the payment of said debt that the State had or has by law, and the Governor and Secretary of State shall give such party or parties paying such indebtedness a certificate showing the facts, which shall be evidence against said company of such indebtedness to said individuals or corporations. 467

468

SEC. 7. Be it further enacted, That any person or persons may, with the consent and approbation of any railroad company which is indebted to, and for which the State of Tennessee holds a lien, pay the said debt, *so far as the State is concerned*, in the bonds of the State, or any coupons of bonds at par, and the person or persons so paying the debt of any railroad company with the consent of such railroad company, shall, upon

469 filing with the treasurer of this State the written assent
of said railroad company, under the corporate seal of
said railroad company, be entitled to have and hold all
the lien or liens which the State of Tennessee had or
has upon said railroad or its property, and shall have
the same right to enforce the same which the State of
Tennessee had, the object and intent being to place the
person or persons so paying with the consent of said
railroad company in the same position and with the same
rights which the State of Tennessee had previous to
470 and before the said payment, and with full power to
enforce the same.

SEC. 8. Be it further enacted, That any person or
persons who may, with the consent and approbation of
any railroad company, pay any part or portion of the
indebtedness of such company, as provided in Sec.—,
shall have, hold, and be subrogated in all the rights,
privileges, and lien or liens of the State, to the extent
of, and in proportion to the amount of such indebted-
471 ness, with the same rights and privileges the State now
has, to the extent of such payment or payment; Pro-
vided, *The passage of this act shall not decrease the
lien of the State upon any railroad of the State until
the entire claim of the State is fully liquidated* OR AF-
FECT THE INTEREST OF THE PRESENT BONDHOLDERS OF
THE STATE; *Provided, That railroad companies which
have issued second mortgage bonds, availing themselves
of the provisions of this act, shall file with the comp-
troller bonds of the same series as those loaned to such
472 company, for which the State holds a first mortgage
lien. Provided, The bonds to be issued by the com-
pany, under the provisions of this act, shall not have
a longer time to run than the bonds of the State thus
released and canceled.*

SEC. 9. Be it further enacted, That this act shall take effect from and after its passage.

ACT OF JANUARY 2, 1870.

An Act for the Payment of the State Debt.

Page 61, Laws of 1870–71.

Sec. 1. Be it enacted by the General Assembly of the State of Tennessee; that an act entitled "An Act to liquidate the State debt, contracted in aid of railroad companies in the State of Tennessee," passed February 25, 1869, be, and the same is hereby amended, so as to allow any railroad company which may be indebted to the State by reason of the bonds of the State loaned to said railroad company, to pay into the State, in liquidation of the principal of said indebtedness, any of the legally-issued six per cent. bonds of the State of Tennessee outstanding, without regard to series or number; and such payment shall, to the extent made, be a full and perfect discharge of the lien which the State holds upon the property of such railroad company, held by virtue of the bonds of the State issued to such railroad company, whether they be the same bonds or the same series of bonds issued to said company, under the act passed February 11, 1852, and acts amendatory thereof, or not.

Sec. 2. *Be it further enacted*, That railroad companies issuing their own mortgage bonds under the provisions of the act which this is intended to amend, be allowed to fix the rate of interest which the said bonds of the railroad company are to bear, and all laws in conflict are hereby repealed. *Provided*, that when said railroad companies owe interest already due, coupons past due shall be taken by the comptroller or treasurer in discharge of such indebtedness for interest.

Sec. 3. *Be it further enacted*, That when any company, under the provisions of this act, shall pay into the treasury of the State bonds which have been issued by the State to said company, the said bonds shall be

477 cancelled; but should any company, in discharge of its own debts, pay into the treasury any bonds that were issued to other companies that may still be indebted to the State, such bonds so paid in shall not be cancelled, but shall be held by the State as purchased bonds, retaining a lien for the State upon the road to which said bonds were originally issued until the debt of said road to the State shall be fully discharged, when the bonds so held shall be cancelled. *Provided*, That the provisions of this act shall not be
478 so construed as to allow the payment and satisfaction of debts created by bonds issued by the State, and upon which the State is secondarily liable, nor to the payment of the sinking fund, now required by law, of the railroad companies of this State.

SEC. 4. Be it further enacted, that this Act shall take effect from and after its passage.

479

COMPTROLLER'S REPORT

October, 1869.

"Taking this view of the subject, I would respectfully suggest to your Honorable Body the propriety of selling a sufficient number of our roads for the bonds of the State, to lessen our liabilities some eight or ten millions of dollars. With this reduction in our State debt, our liabilities could be regularly and unfailingly
480 met; and with assurances that the escutcheon of the State of Tennessee will never be soiled by the mildewing touch of repudiation, our good Commonwealth would soon appear "clothed and in her right mind," and sit contentedly, a queen among her sisters, a position to which she is entitled, a heritage that awaits her."

I, C. N. GIBBS, Secretary of State of the State of Ten

nessee, do certify that the foregoing is a copy of an 481
extract from the printed copy of the Comptroller's Report to the Legislature, October, 1869, page 50, taken from the Journals of 1869-70, which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July, A. D., 1879. 482

[L.S.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE,
Davidson County.

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify that CHAS. N. GIBBS, whose genuine signature appears to 483
the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand at office,
in Nashville, this 22d day of
July, 1879.

JNO. C. FERRISS,
County Judge. 484

STATE OF TENNESSEE,
Davidson County.

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that JNO. C. FERRISS, whose genuine signature appears to the foregoing certificate, is now, and was, at the time of signing the same, sole presiding Judge of the County Court in and for said

485 **County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.**

Witness my hand and seal of said Court, at office, this 22d day of July, 1879.

J. R. McCANN,
[L.S.] ***Clerk.***

486

487

488

Comptroller's Report

October, 1869.

RAILROADS.

The records of this office however, do not show that Receivers are more successful than the regular officers of the Railroads, in collecting and paying, into the Treasury, indeed less so: for, from the roads now in the hands of Receivers, hardly a dollar has been received during the past fiscal year.

The failure of many of the Railroad Companies to pay their interest due on the 1st of July last, has been very embarassing to the Treasury—because entirely unexpected. From a tabular statement headed, "Railroads," in this report, it will be seen, that the large sum of nearly $800,000, was due by them on the 1st of July last, for interest, for which amount, the Treasury was compelled to provide.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of two extracts from the printed copy of the Comptroller's report to the Legislature, October, 1867, pages 13 and 67, taken from the *Legislative Journals* of 1867-8, which is now of record in my office.

In testimony whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July, A. D., 1879.

[L.S.]

CHAS. N. GIBBS.
Secretary of State.

493 **State of Tennessee,**
Davidson County.

I, **Jno. C. Ferriss**, sole Presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such and that said attestation is in due form of law, and by the proper officer.

494 Given under my hand at Office, in Nashville, this 22d day of July, 1879.

JNO. C. FERRISS.
County Judge.

State of Tennessee,
Davidson County.

I, **J. R. McCann**, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss whose
495 genuine signature appears to the foregoing certificate, is now, and was, at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

Witness my hand and seal of said Court,
[L.S.] at office, this 22d day of July, 1879.

J. R. McCANN,
Clerk.

496

CHAPTER LXXII. 497

An Act to authorize the Governor of the State to issue bonds of the State of Tennessee, to the East Tennessee and Virginia Railroad Company, to aid in the building of bridges.

Passed Jan. 15, 1852.

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That for the purpose of aiding the East Tennessee and Virginia Railroad Company, 498 in the construction of bridges on their said railroad, the Governor of the State is hereby authorized and required to issue coupons of the State of Tennessee to said company to an amount not exceeding the sum of three hundred thousand dollars, bearing an interest of six per cent. per annum, payable semi-annally at such place as the President of said Company may designate, which bonds shall be payable in not less than thirty nor more than forty years after date, and at such place as said President may designate, but said bonds are to be is- 499 sued as hereinafter provided.

SEC. 2. Be it enacted, That whenever it shall be made known to the Governor to his satisfaction by the President and Directors of said Company that forty miles of said railroad have been put under contract, and that the work on the same is progressing to completion, and that said Company has sufficient *bona fide* subscriptions to grade and put the necessary culverts on said section of forty miles, ready for the iron rails, which subscription 500 shall be adjudged solvent and valid by the Board of Internal Improvements, or any Chief Engineer or other persons appointed to examine and report upon works of internal improvements, then it shall be the duty of the Governor to issue to said Company coupon bonds of the State of Tennessee, of the description aforesaid, to an amount not exceeding one hundred thousand dollars, to be expended on the bridges necessary to be constructed on the said section of forty miles. And in like manner when a second section of forty miles shall have been put under contract, and the work thereon progressing, and said company has sufficient *bona fide* subscriptions to grade and put on the necessary culverts as aforesaid ready for the iron rails, which subscription shall be adjudged solvent and valid by the board of Internal Improvement, and all of which facts shall be made known to the Governor in the manner aforesaid to his satisfaction, then it shall be the duty of said Governor to issue to said company, coupon bonds of the State of Tennessee, of the description aforesaid, for an amount not exceeding one hundred thousand dollars to be expended on the bridges necessary, to be constructed on said section of forty miles, and a like provision with like restrictions and conditions in all respects, is hereby made for an additional section of forty miles of said railroad, the funds to be used in construction of the necessary bridges on said last-named section.

SEC. 3. *Be it enacted*, That so soon as the bonds shall be issued for the first section of forty miles, as provided in the first section of this act, the said bonds shall on the issuance thereof, constitute a lien upon all the stock of said company, upon the road bed, masonry, bridges, and other property of said company, and the State shall be invested with such lien on and by virtue of the issuance of said bonds, without a deed from the company for the payment of said bonds and interest accruing thereon; and whenever the bonds are issued for either or both of said sections of forty miles, as specified in the first section of this act, the State of Tennessee shall on and by virtue of the issuance of said bonds be invested with a like lien or mortgage on said sections for the payment of said bonds and the interest thereon, including road-bed, masonry and bridges, on all of the said sections provided for in this act, and on all of the stock of said com-

pany, without a deed from the company, and said 505
lien or mortgage shall have priority over all other claims against company, and all liens created by the company after the issuance of the bonds for the first forty miles of said railroad, shall be void as to the liens of the State of Tennessee, hereby created for the payment of the bonds issued under the provisions of this act, and the accruing interest thereon, and the said liens of the State shall extend to and embrace the entire railroad, its superstructure and equipments after
completed, and so continue until said bonds and inter- 506
est thereon are paid off and discharged, and without a deed from the company.

Sec. 4. *Be it further enacted*, That the Legislature of this State shall have the power to enact any law or laws that may hereafter be deemed necessary to protect the interest or credit of the State against loss or damage on account of the issuance of said bonds, and to provide for the more speedy and certain payment
by the company of said bonds and interest, not impair- 507
ing the vested rights of the stockholders, and that for that purpose and the purposes of notice of the existence of this act, the same is hereby declared to be a public law.

Sec. 5. *Be it further enacted*, That before the Governor shall issue any bonds under the provisions of this act, he shall require the engineer of said company to examine the premises where such bridge or bridges are to
be built, and to ascertain, as near as he may be able, 508
the cost of construction of said bridge or bridges, with good materials and in a good and substantial manner, and report the same under oath to the Governor; and it shall not be lawful for said Governor to issue bonds as aforesaid for a greater amount for the construction of such bridge or bridges than the sum specified in the report of said engineer, and the provisions of this act shall only extend to and include a

bridge across the Watauga river, two bridges across the Holston river, and a bridge across Lick creek, on the line of said road, and no bonds shall issue under this act, unless upon the written affidavit of the President of said company and a resolution of a majority of the directors thereof; and that said bonds, when issued, shall not be used for any other purpose than procuring the means for the construction of said bridge or bridges, and it shall not be lawful for said bonds to be used for any other purpose; provided, the estimates of said engineer shall include the masonry on the line of said road; provided, that the bonds of the State shall not be issued to build the bridges herein provided for, until there is stock by good and solvent individuals, corporations, companies or counties, sufficient to grade the road and put the timbers on the same from Knoxville to the Virginia State line, which facts shall be certified to the Governor of the State, by the written affidavit, by the President and directors of said road; and provided further, that the three hundred thousand dollars of bonds, hereinbefore authorized to be issued to said company, may be included with the amount of stock subscribed by good and solvent individuals, corporations, companies or counties, and if the said sum of three hundred thousand dollars, together with the said subscription of stock in said road shall be sufficient to grade and build the bridges and masonry thereon, and otherwise prepare the said road for the iron rails, which facts shall be made to appear by the report of the Chief Engineer of said road, on oath to the Governor, then it shall be the duty of the Governor to issue to the said company, upon the application of the President and a majority of the directors of said company, the bonds of the State for three hundred thousand dollars, as provided in the first section of this act, and the proceeds of said bonds shall be applied to the construction of the bridges specified in the fifth section of this act, and the masonry on the line of the said road, and the surplus, if any, to any other bridges on the line of said road, or other purpose necessary to prepare the said road for the iron rails.

Sec. 6. *Be it enacted*, That it shall be the duty of said company to deposit in the Bank of Tennessee at Nashville, at least fifteen days before the interest becomes due, from time to time upon said bonds issued as aforesaid, an amount sufficient to pay such interest, including exchange and necessary commission or satisfactory evidence that said interest has been paid or provided for, and if said company fail to deposit said interest as aforesaid, at the time aforesaid, or furnish the evidence aforesaid, it shall be the duty of the Comptroller to report that fact to the Governor, and the Governor shall immediately appoint some suitable person or persons, at the expense of the company, to take possession and control of said railroad, and all the assets thereof, and manage the same and receive the rents, issues, profits and dividends thereof, whose duty it shall be to give bond and security to the State of Tennessee, in such penalty as the Governor may require for the faithful discharge of his or their duty as Receiver or Receivers, to receive said rents, issues, profits and dividends and pay over the same under the direction of the Governor for the liquidation of such unpaid interest, and if such company fail or refuse to deliver up said road to the person or persons so appointed by the Governor, the said person so appointed shall report that fact to the Governor, who shall forthwith issue his warrant, directed to the Sheriffs of said counties, through which said road shall run, commanding them to take possession of said road, fixtures, equipments, and receive the same and manage the entire road until a sufficient sum shall be realized, exclusive of the costs and expenses, incident to the proceedings to pay off and discharge the interest as aforesaid, due on said bonds, which being done, the Receiver shall surrender said road and fixtures and equipments to said company. The Comptroller shall from time to time, settle the accounts with the Re-

517 ceiver, and the balances shall be deposited in
the Treasury of this State. The Comptroller
is authorized, and it is made his duty upon
his warrant to draw from the Treasury any sum
of money necessary to meet the interest on such bonds,
as may not be provided for by the company as provided for in this act, and the Comptroller shall report
thereof to the General Assembly from time to time.

SEC. 7. *Be it enacted*, That if said company shall
518 fail or refuse to pay any of said bonds when they fall
due, it shall be the duty of the Governor to notify the
Attorney-General of the District in which is situated
the place of business of said company of the fact, and
thereupon said Attorney-General shall forthwith file a
bill against said company in the name of the State of
Tennessee, in the Chancery or Circuit Court of the
County in which is situated said place of business, setting forth the facts, and thereupon said Court shall
make all such orders and terms in said cause, as may
519 be deemed necessary by the Court to receive the payment of said bonds with the interest thereon, and to
indemnify the State of Tennessee against any loss on
account of the issuance of said bonds, by or during
the said railroad to be placed in the hands of a Receiver, ordering the sale of said road, and all the property and assets attached thereto or belonging to said
company, or in such other manner as the Court may
deem best for the interest of the State.

520 SEC. 8. *Be it enacted*, That at the end of five years after the completion of said road, said Company shall set apart one per centum per annum, upon the amount of bonds issued to the Company, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the Company shall pay into the Treasury of the State after assigning them to the Governor, and for which the Governor shall give said Company a receipt, and as between the State and said Company the

bonds so paid in shall be a credit upon the bonds 521
issued to the Company, and said bonds so paid in, and
the interest accruing thereon, from time to time shall
be held and used by the State as a Sinking Fund for
the payment of the bonds issued to the Company, and
should the Company re-purchase any of the bonds
issued to it, under the provisions of this act, they shall
be credited as aforesaid and cancelled. And should
said Company fail to comply with the provisions of
this section, it shall be proceeded against, as provided
in the sixth section of this act. 522

SEC. 9. *Be it enacted*, That in the event of any of
said road, fixtures or property belonging to said road,
shall be sold under the provisions of this act, it shall
be the duty of the Governor to appoint an agent for
the State, who shall attend said sale and protect the
interest of the State, and shall if necessary to protect
said interest, buy in said road or property in the name
of the State, and in case said Agent shall purchase
said road for the State, the Governor shall appoint a 523
Receiver, who shall take possession of said road and
property and use the same as provided for in the sixth
section of this act, and said Receiver shall settle with
the Comptroller semi-annually, until the next meeting
of the General Assembly.

JORDAN STOKES,
Speaker of the House of Representatives.

M. R. HILL,
Speaker of the Senate. 524

Passed January 15, 1852.

CHAPTER CXVI.

AN ACT *to Encourage Retirement of the State Debt Incurred by the issuauce of State bonds to Railroad Companies.*

Passed February 2d, 1871.

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee,* That either or any of the Railroad Companies in this State may issue their respective company bonds, in such amount, and bearing such rate of interest, not exceeding the legal rate of interest at the place where payable, as may be determined on by stockholders representing a majority of all the stock in the company, of which bonds are proposed to be issued; and may secure the payment of such bonds, principal and interest, by mortgage of the franchises, road-bed, superstructure, equipment, and property of every description of such Railroad Company; provided, the mortgage above authorized shall not be so construed as to interfere with prior liens, especially the liens of the State; and provided further, that nothing herein contained shall be construed in any way to impair or diminish the priority of the State's lien upon the property, which may be mortgaged as herein provided for; and expressly bonds which have been, or hereafter may be issued by the State, shall be and remain a first lien on all property of every description, of the railroad company to which said bonds may have been issued.

SEC. 2. *Be it further enacted,* That this Act take effect from and after its passage, the public welfare requiring it.

Passed February 2d, 1871.

W. O'N. PERKINS,
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

Approved February 3d, 1871.

D. W. C. SENTER,
Governor.

Laws of Tennessee, 1870—71, Page 134.

CHAPTER CXCI.

AN ACT *to incorporate the Nashville, Franklin and Columbia Railroad Company.*

SEC. 30. *Be it enacted*, That none of the railroad companies mentioned in an Act passed at this General Assembly, entitled "an Act to establish a system of Internal Improvement in this State," and none of the railroad companies, incorporated at the present General Assembly, shall either directly or indirectly engage in any kind of banking whatever, and if any of said companies violate the provisions of this section of this act, it shall be deemed and held a forfeiture of their charter, and any such company or companies shall not be entitled to any of the benefits or privileges of the above-recited act.

SEC. 31. *Be it enacted*, That the above recited act be so amended, that the State of Tennessee shall pay for the materials for engraving the bonds to be issued to said companies, and each company shall pay for the balance of the costs of preparing and issuing the bonds issued to such company, and shall refund to the State their proportional part of the expenses of procuring said materials.

SEC. 32. *Be it enacted*, That it shall not be lawful for the Governor to issue, or cause to be issued, bonds of the State, to any railroad company, except those mentioned in the aforesaid "Act to establish a system of Internal Improvement in this State."

JORDAN STOKES,
Speaker of the House of Representatives.

Passed February 28, 1852.

533 AN ACT *to amend the Charter and several acts amendatory thereto, passed by the Legislatures of Tennessee and Kentucky, incorporating a company to construct a railroad from the city of Louisville to the city of Nashville.*

SEC. 1. Be it enacted, by the General Assembly of the State of Tennessee, That the several acts of the General Assembly of the States of Tennessee and Kentucky, be, and are hereby amended by the additional
434 sections.

SEC. 2. That the Louisville and Nashville Railroad Company is hereby authorized to issue, from time to time, income bonds, pledging the receipts of said road in amount not to exceed one million five hundred thousand dollars in the aggregate. Said bonds to be made payable at such time and place as the president and directors of said company may direct, and bear a rate of interest not exceeding eight per cent. per annum,
535 with interest coupons attached; they shall bear the signature of the president, and be countersigned by the secretary, the coupons to be signed by the secretary, the seal of the corporation to be affixed: Provided, however, said bonds nor any mortgage made to secure them, shall be enforced in the State of Tennessee, at a higer rate of interest than six per cent. per annum, unless at the time of enforcement the laws of Tennessee allow a higher rate; then for such rate as allowed by law, but may be enforced in Kentucky. The bonds
536 hereby authorized to contain on their face a pledge of the income of said company from the main road, after the payment of charges for running and the necessary repairs, they, or the proceeds of sales, shall be used in the purchase of iron, chairs, spikes, cross-ties, the laying of tracks and equipment for business, and for the purpose of construction as hereinafter prescribed on the main road and no other. It shall be deemed malfeasance in office in such members of the board as

shall authorize any other use, and any stockholder 537
or bondholder shall have the right to arrest by petition or affidavit such improper application, the bonds hereby authorized shall not be held to be cumulative but as a part of the sum authorized under an act which passed the legislatures of Tennessee and Kentucky at their session of 1855.

SEC. 3. That the bonds hereby authorized to be issued shall be made payable to the bearer, and pass
by delivery; and to secure the prompt payment of the 538
interest and principal, said company, by their president, may make and execute a mortgage to two trustees, to be named therein, for the benefit of the holders of said bonds, and provide for a succession of trustees in case of death, removal or refusal to act. It shall to all intents and purposes pass the property recited, and privileges and franchises to the trustees, for the use of the holders of bonds, herein provided to be issued, and such others as it purports to secure, together with
the earnings of said road, after the payment of the 539
expenses of running and repairs. This act shall not be construed to affect, nor shall any mortgage executed by its provisions impair, or any way affect, change or weaken the lien of Tennessee on that part lying within that State, created by the Statutes of the State on the conferring and accepting State aid by said company. But it shall be the duty of the president and trustees to make a faithful application of the earnings of said road to pay the interest, as the same falls due, on the
bonds of the State received by said company. 540

SEC. 4. That it shall be the duty of the president and directors of said company to cause to be set apart and held sacred as a sinking fund such per cent. of the earnings of said road, after paying charges for running, repairs, and incidental expenses in the operations of said road, a per cent. equal to the payment of interest on the bonds, and be sufficient to redeem each class of bonds as they respectively fall due; the setting apart of such fund shall, however, in no event have preference over the rights of the State, as given by former legislation in reference to the income of said road. When any of said bonds shall fall due, said company may make proclamation through one or more of the newspapers published in the cities of Louisville, Nashville and Bowling Green, of its readiness to pay on a day, and at the place of payment, and if the bonds so advertised and designated are not presented for payment, the interest shall cease from that time until presented and payment refused.

SEC. 5. If said company shall fail to make payment of the interest as the same shall fall due, the holders of said bonds may proceed by petition, filed on affidavit, in the Chancery Court, in the city of Louisville, Nashville or Bowling Green, after notice to the president; and on hearing, the Court shall make such order or decree in the premises as may be deemed necessary and sufficient to enforce and secure the performance of the trust, which order shall be for the benefit of the bondholders to whom said company may be in default. That the holders of bonds due and unpaid with accumulated interest in the aggregate amount of fifty thousand dollars, shall have the right to file their bill or petition, and ask a foreclosure and sale of the mortgaged property. Upon the filing of such proceeding, it shall be the duty of the president to cause a perfect list of all bonds secured by said mortgage, and place them on file in said suit, when it shall be the duty of the Court to make publication of the fact of the filing of said bill, in papers published in New York, Louisville and Nashville ninety days by successive weekly insertions, before rendering a decree, and on hearing such decree shall be rendered as will be equitable among all the holders of the bonds on sale or purchase, or order of lease, the person or persons, corporation or corporations, that may become the owners

or lessees under such decree or order, shall and are 545
hereby declared to be substituted to, and vested with,
all the rights, privileges, franchises and immunities
of said corporation, in the property sold or leased, as
well that part in Tennessee as in Kentucky, but the
right in Tennessee shall only attach and be continuous
on the payment, at the proper time and place, the interest
on the bonds of the State of Tennessee, received
by said company, the sinking fund, and the bonds
themselves as they fall due. That the holders of the
bonds issued under this or any other act authorizing the 546
issuance of bonds, shall, at their option, have the right,
at any time, to convert said bonds into the stock of
the company at dollar for dollar. The company is
vested with the power, by the consent of the holders
of the bonds, to agree on terms by which the stock of
the company may be issued to bondholders in payment
thereof. That the issue of bonds herein authorized
shall be conclusive evidence of the acceptance of the
company of this as an amendment of their charter,
and as evidence that all the requirements of the act 547
have been complied with.

Sec. 6. That, whereas, the funds necessary for ironing
and equipping the line of the Louisville and Nashville
Railroad, in the State of Tennessee, are furnished
by the State aid heretofore granted and accepted by
said company; and, whereas, it is but just and right,
that the line of the road in Tennessee shall receive its
fair proportion of the proceeds of the income bonds
raised by virtue of this act; the authority hereby con- 548
ferred is subject to this provision, that so much at
least of the proceeds of said income bonds, shall be
applied to the construction of the road-bed and cross-ties
in the State of Tennessee, as will give the line of
the road in fair proportion as above, if the same should
be needed to prepare such for the iron.

Sec. 7. That to carry out the preceding section, 549 that the amount so appropriated to the line of the road in this State, shall be in proportion to the entire amount at any one time raised by said income bonds, as the length of the line of the road in Tennessee is to the length of the entire road. That it shall be deemed malfeasance in office, as provided in section second of this act, in such members of the board of directors of the Louisville and Nashville Railroad Company, as shall authorize any use of the proceeds of such bonds inconsistent with the foregoing provisions.

550

Sec. 8. That the time for the construction of the
bridge across the Cumberland river, as specified in the
act of the general assembly, passed the 15th December,
1855, be extended to the Louisville and Nashville
Railroad Company for twelve months, from and
after the passage of this act; and that
said company is hereby vested with the right to con-
tract with the general government for the transporta-
tion of the mails, and is hereby declared capable in
551 law to receive and hold any grant or appropriation
made by Congress as compensation for public service.

Sec. 9. That the power to acquire land for railway
track and necessary side tracks, and the requisite
quantity for depot, freight and passenger houses,
within the corporate limits of the city of Nashville,
which by law are conferred on the Nashville and
Chattanooga Railroad Company, be, and is hereby
vested in the Louisville and Nashville Railroad Com-
552 pany, and the Edgefield and Kentucky Railroad Com-
pany, and may be enforced by said companies, jointly
or separately for their joint or several use.

Sec. 10. That nothing in this act shall be so construed as to give banking privileges to the company of any character whatever, or so as to increase the liability of the State to said company. That this act take effect from and after its passage.

Sec. 12. That so soon as the Louisville and Nashville Railroad Company shall have graded their said road from the termination of the first thirty miles from Nashville to the Kentucky line, prepared to receive the iron rails, then the governor of the State shall issue the bonds of the State to said company, agreeably to the act of 1852, and acts amendatory thereto. 553

Sec. 14. That it shall be lawful for any sheriff, coroner, or constable to levy upon and sell, as other personal property, any share or shares in any railroad or turnpike company in this State, belonging to any execution debtor or corporation, against whom they hold an execution. 554

Sec. 15. That the officer making the levy, shall at the time of such levy, or as soon thereafter as practicable, notify the secretary or other officer entrusted with the books of the turnpike or railroad company of the fact of such levy; the notice to be given personally or in writing, left at the office of the secretary or other officer aforesaid. 555

Sec. 16. That upon the sale of such turnpike or railroad stocks in shares, by execution, the officer, on receiving from the purchaser the amount of his bid, shall execute and deliver to him a certificate of the shares sold, and his return of the sale, on the back of the execution, shall be notice to all the world of the fact of sale; and on presenting to the proper officer of the company said certificate, said officer shall transfer said shares on the proper books to the purchaser or his assigns. 556

Passed March 20, 1858.

557

ARTICLE III.

Of the State Aid to Railroads, under the Law of 1852, *and Amendments.*

1091. By the Act of 1852, ch. 151, and subsequent Acts amendatory thereof, a system of internal improvements, by means of railroads, is developed by the aid of the State, through the loan of its credit. 558

1092. Upon its being satisfactorily shown to the Governor that either of the railroad companies in these acts mentioned has procured *bona fide* and good and solvent subscriptions of capital stock to an amount sufficient to grade, bridge and prepare for the iron rails the whole extent of the main trunk line proposed to be constructed by such company, and has graded, bridged, and fully prepared thirty miles of the road at either terminus for the iron, the Governor is authorized to 559 issue to the company coupon bonds of the State to an amount not exceeding ten thousand dollars a mile on such section, and one hundred thousand dollars for bridges across certain rivers and streams, and so on each additional section of ten miles. Such bonds shall not have more than forty nor less than thirty years to mature; shall be payable at some point in the United States to be designated by the president of the company, and bear interest at the rate of six per cent., payable semi-annually. 560

1093. If the entire road is less than thirty miles, or the last section less than ten miles, the bonds shall be issued upon the completion of the grading of the whole road in the one case, and the last section in the other.

1094. No bonds are to be issued except upon the affidavit of the president of the company, and a resolution of the board of directors, that they are not

to be used for any other purpose than for procuring the 561
iron rails, chairs, spikes, and equipments, and for putting down the rails; nor are such bonds in any case to be sold at less than their par value.

1095. The bonds are not to be used for any other pur-
pose than for procuring the iron rails, chairs, spikes
and equipments for the prepared section of such road,
and putting down the rails thereon, and the Governor
may appoint a commissioner to act under oath in con-
nection with the President of the road in the negotia- 562
tions of the bonds, and to see that the proceeds are
properly appropriated, and the interests of the State
fully protected.

1096. It shall be felony for any officer, agent or servant of a railroad company to appropriate such bonds, or the money arising from the sale thereof, or any portion of either, to any other use than that prescribed by law.

563 1097. These bonds, when issued, constitute a lien upon the section of the road so prepared, including the road-bed, right of way, grading, bridges, and masonry upon all the stock subscribed to such road, and upon the iron rails, chairs, spikes and equipments when purchased; the State being vested with the lien, without any conveyance, as a security for the payment by such company of the interest on such bonds as it falls due, and of the principal of the bonds at their maturity.

564 1098. And upon the completion of the entire road, the State is invested with a lien without deed, for the purposes mentioned, on the whole road, superstructure, equipments and stock, and upon all the property owned by the company as incidental to or necessary for its business.

1099. Nor can such company, after the issuance of the bonds for the first section, create any lien, encum-

565 brance, or mortgage on any part of the road, or on any portion of their property, in conflict with, or having priority of the State lien.

1100. It is the duty of such company, at least fifteen days before each installment of interest on the bonds issued to it becomes due, to deposit in the Bank of Tennessee, at Nashville, a sum sufficient to pay such interest, including exchange and necessary commissions; or furnish satisfactory evidence to the Comptroller that such interest has been paid or provided for. 566

1101. Upon failure to comply with the requirements of the preceding section, the Comptroller shall report the fact to the Governor, who shall forthwith appoint a suitable person, at the expense of the company, to take possession and control of the road, and all the property and effects of the company, manage the same and receive the rents, issues and profits.

1102. The Governor, if necessary, may issue his warrant 567 to the sheriffs of the different counties through which the road may run, commanding them to put the receiver appointed in possession of the road, its property and effects.

1103. The receiver shall, however, first give bond with satisfactory surety, in a penalty to be fixed by the Governor, payable to the State, conditioned for the faithful discharge of his duty as receiver, and that he will receive the rents, issues, and profits, and pay the 568 same under the direction of the Governor, in liquidation of the unpaid interest,

1104. The receiver shall continue in possession and manage the road until a sufficient sum is realized, exclusive of the costs and expenses incident to the proceedings, to pay off the unpaid interest, after which he shall surrender the road to the company.

1105. The comptroller shall, from time to time, settle 569
with the receiver, who shall forthwith pay into the treasury any surplus funds in his hands.

1106. The comptroller shall, upon his warrant, draw from the treasury any sum necessary to meet the interest falling due upon the bonds of the State, and not provided for by the railroad companies.

1107. If the company fail to pay any of the bonds at
maturity, the Governor shall notify the Attorney-General 570
of the district in which such company has its place of business, whs shall immediately file a bill in the Chancery Court, to enforce the lien of the State; which court shall appoint a receiver, order a sale of the road, and all the property and effects of the company, and otherwise decree as may best protect the interests of the State.

1108. At the end of five years after the issuance of
each bond to which such road is entitled, such company 571
shall set apart two per centum per annum on the amount of bonds issued to the company, to be used in the purchase of the bonds of the State, which, when purchased, shall be assigned to the Governor, and held, with the accruing interest, as a sinking fund for the payment of the bonds issued to such company. And the Governor, Comptroller of the Treasury, and President of the Bank of Tennessee, are constituted a Board of Commissioners for the management of said
fund, and shall reinvest the same in bonds of the 572
State.

1109. Should such company fail to comply with the provision of the preceding section, it shall be proceeded against in the same way as above provided upon its failure to meet any instalment of interest.

1110. The president of each of these companies shall make semi-annual reports under oath to the Governor

573 until the completion of the road, setting forth fully the condition of the road and the company; and, after its completion, he shall report to the Governor annually, giving a statement of the trade and travel upon the road, the receipts and expenditures, net earnings and dividends, what per cent. is paid on the stock of the stockholders, and the financial condition of the company generally.

1111. Such companies shall also, at least once in each 574 year, on the first of September, make to the railroad commissioner a report as required in the next chapter, which treats of that officer.

1112. In the event of any of these roads, or the property thereof, is sold under the foregoing provisions, the Governor shall appoint an agent to attend the sale, and bid in the property if necessary to protect the interests of the State, in which case the Governor shall appoint a receiver to take possession and manage such road as hereinbefore provided. 575

1113. The State of Tennessee expressly reserves the right to enact, by the Legislature, all such laws as may be deemed necessary to protect the interests of the State, and to secure the State from loss in consequence of the issuance of such bonds; but so as not to impair the vested rights of the stockholders of the companies.

1114. The State is entitled to two directors, to be ap- 576 painted by the Governor, in all railroad companies to which her bonds are issued.

Report on the Revised Statutes to the General Assembly.

"The power to revise includes those of alteration and amendment; but I have conceived myself authorized to exercise those powers only so far as to drop out of the Statutes all unnecessary words, and to reform the composition so as to attain all the perspicuity and clearness in my power, not venturing to change the ideas of the Legislature." 577

R. J. MEIGS.

October 12, 1857.

CONSTITUTIONAL PROVISIONS. 578

The Constitution of Tennessee, ratified by the people on March 6, 1835, contains the following provisions:

ARTICLE I.

Declaration of Rights.

SEC. 8 That no freeman shall be taken, or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers or the law of the land 579

SEC. 17. That all courts shall be open, and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the State in such manner and in such Courts as the Legislature may by law direct.

580

SEC. 20. That no retrospective law, or law impairing obligation of contracts shall be made.

SEC. 24. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to, and published with the laws at the rise of each stated session of the General Assembly.

581

ARTICLE XI.

SEC. 7. The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals, inconsistent with the general laws of the land, nor to pass any law granting to any individual or individuals rights, privileges, immunities or exceptions other than such as may be by the same law extended to any member of the community, who may be
582 able to bring himself within the provisions of such law; provided always, the legislature shall have power to grant such charters of corporations as they may deem expedient for the public good.

SEC. 9. A well regulated system of internal improvements is calculated to develop the resources of the State and promote the happiness and prosperity of her citizens; therefore it ought to be encouraged by the General Assembly.

583 SEC. 12. The declaration of rights hereto prefixed, is declared to be a part of the constitution of this State, and shall never be violated on any pretence whatever; and to guard against transgression of the high powers we have delegated, we declare that every thing in the Bill of Rights contained, is excepted out of the general powers of government, and shall forever remain inviolate.

584

CHAPTER CXIII. p. 123. 585

Laws of 1855–6.

An Act to provide a remedy in favor of private individuals against the State of Tennessee.

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That, hereafter, when any person may have any right of action against the State of Tennessee, it shall be lawful for such person to institute his, her, or their suit against the State under 586
the same rules and regulations that govern actions between private persons.

SEC. 2. *Be it enacted*, That whenever any person may wish to institute a suit under the provisions of the first section of this act, service of process upon the Attorney-General of the district where the party may desire to institute suit, will be sufficient service to bring the parties before the Court, provided ten days' notice be given. 587

SEC. 3. *Be it enacted*, That in all suits brought against the State, or suits brought by the State against individuals, the Statute of Limitation shall not operate to interpose a bar to the successful prosecution of any such suits.

SEC. 4. *Be it further enacted*, That in all cases where suits have been finally determined in favor of any person or persons against the State, it shall be the duty 588
of the Comptroller of the Treasury, on the judgment creditor in such case filing with him a certified copy of the record in said case, showing the amount of said recovery, to issue his warrant for the same.

* * * * * *

589 Sec. 23. *Be it enacted,* That this act shall take effect from and after its passage.

NEILL S. BROWN,
Speaker of the House of Representatives.

EDWARD S. CHEATHEM,
Speaker of the Senate.

Passed February 28, 1856.

590

Code of 1858.

Sec. 2807. Actions may be instituted against the State under the same rules and regulations that govern actions between private persons, process being served upon the District Attorney of the district in which suit is commenced.

591

Article 5, p. 539.

CHAPTER LX. p. 82.

Laws of 1815–6.

An Act *to pay current expenses of this Session of the General Assembly, and for other purposes.* 592

Sec. 1. Be it enacted by the General Assembly of the State of Tennessee, That the Comptroller of the Treasury issue his warrant to each member of the Senate and House of Representatives for the sum stated to be due to each in the annexed report to the Committee of Finance.

* * * * *

Sec. 34. *Be it further enacted, that Section* 2807 *of* 593
the Code is hereby repealed.

"This act was passed June 10, 1865. It did not, by its terms, take effect from its passage. The session at which it was passed was, by joint resolution, No. 61, adjourned to the first Monday of October, 1865, at which session, the acts known as the acts of 1865–6 were passed. This adjourned session by joint resolution, No. 109, was again adjourned to the first Monday in November, 1866, to adjourn *sine die* on the tenth of December, 1866; but 594
this session, which passed the acts known as the acts of 1866–7, did not finally adjourn until March 11, 1867. See acts of 1866–7, joint resolution, No. 92. Hence, according to the doctrine of Day *vs.* Maginnis, 1 Heiskell, 310, the above act did not take effect, and the State continued liable to suit until April 21, 1867, or forty days after the 11th of March, 1867. See sections 162, 3790 *a.*"

"*Note.*—Also note the section 4665 *b.* As to the computation of time, see section 48, and cases cited, and 595
now see the new constitution, article 2, section 20." (Above extracted from the notes to a compilation of Tennessee laws made in 1871.)

CONSTITUTION OF 1870.

Art. 1. Declaration of Rights. 596

* * * * * * *

§ 8. That no man shall be taken or imprisoned or be disseized of his freehold, liberties or privileges, or outlawed or exiled or in any manner destroyed or deprived of his rights, liberty or property, but by the judgment of his peers or the law of the land.

597 § 17. That all courts shall be open, and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought againt the State in such manner and in such Courts as the Legislature may by law direct.

§ 20. That no retrospective law, or law impairing the obligations of contracts shall be made.

598

Art. 2.—Legislative Department.

* * * * * * *

§ 17. Bills may originate in either house, but may be amended, altered or rejected by the other.

No bill shall become a law which embraces more than one subject, that subject to be expressed in the title.

599 All Acts which repeal, revive or amend former laws shall recite in their caption or otherwise the title or substance of the law repealed, revived or amended.

* * * * * * *

§ 24. No money shall be drawn from the Treasury but in consequence of appropriations made by law, and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at the rise of each stated session of the General Assembly. 600

* * * * * * *

§ 31. The credit of this State shall not be hereafter loaned or given to, or in aid of, any person or association, company, corporation or municipality, nor shall the State become the owner, in whole or in part, of any bank, or a stockholder with others in any association, company, corporation or municipality.

ART. 11.—MISCELLANEOUS PROVISIONS. 601

§ 1. All laws and ordinances now in force and in use in this State, not inconsistent with this constitution, shall continue in force and use until they shall expire or be altered or repealed by the legislature, but ordinances contained in any former constitution, or schedule thereto, are hereby abrogated.

§ 2. Nothing contained in this constitution shall impair the validity of any debts or contracts, or effect
any rights of property, or any suits, actions, rights of 602
action, or other proceedings, in any court of justice.

* * * * * * *

§ 10. A well regulated system of internal improvements is calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens; therefore it ought to be encouraged by the General Assembly.

* * * * * * * 603

§ 16. The Declaration of Rights hereto prefixed is declared to be a part of the constitution of this State, and shall never be violated on any pretence whatever. And, to guard against transgression of the high powers we have delegated, we declare that everything in the Bill of Rights contained is excepted out of the general powers of the government, and shall forever remain inviolate.

Constitution of 1870, Section 33, Art. 2. 604

No bonds of the State shall be issued to any railroad company which at the time of its application for the same shall be in default in paying the interest upon the State bonds previously loaned to it, or that shall hereafter and before such application sell or absolutely dispose of any State bonds loaned to it for less than par.

Chapter 70, page 117.

605 AN ACT *to enforce Section* 33, *Article* 2, *of the Constitution in relation to the issuance of bonds of the State to Railroad Companies under lease, previous to the adoption of the present Constitution.*

§ 1. Be it enacted by the General Assembly of the State of Tennessee, That no bonds of the State of Tennessee shall be issued to any railroad company incorporated in this State previous to the adoption of the present Constitution, and which under the provisions of
606 their charter and the general laws of the State, extending State aid to railroads entitled to receive such bonds, if said railroad company at the time of its application for the same shall be in default in payment of interest on the State bonds previously loaned to it, or that shall have heretofore or hereafter, and before such application sold or absolutely disposed of any State bonds loaned and issued to it for less than their par value.

607 § 2. Be it enacted, That it shall be a high crime or misdemeanor for the Governor, Secretary of State, Comptroller, or any other officer or agent of the State of Tennessee to violate the provisions of the first section of this Act, and upon conviction he or they shall be fined in the sum of not less than $5,000, and shall be removed from office, and shall be forever thereafter rendered incompetent from holding any office of honor or profit in this State.

608 § 3. Be it enacted, That the public welfare demands that this Act shall take effect from and after its passage.

Passed July 7, 1870.

W. O'N. PERKINS,
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

Approved July 8, 1870.

D. W. C. SENTER,
Governor.

CHAPTER XIII. 609

AN ACT *to be entitled An Act to protect the State from suits and judgments.*

Whereas, By Act of 1865, chapter 36, section 34, the General Assembly of the State of Tennessee repealed section 2,807 of the Code of Tennessee, giving a right of suit against the State; and

Whereas, The validity of That repeal has been questioned. Therefore 610

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the said 34th section of the Act of 1865, Chapter 36, be held valid and in force from the date of its passage, and that the said section 2,807 of the Code was, by said Act, effectually repealed.

SEC. 2. *Be it further enacted*, That no Court in the State of Tennessee, has, nor shall hereafter have any power, jurisdiction or authority to entertain any suit against the State, or against any officer of the State, 611 acting by authority of the State, with a view to reach the State, its treasury, funds or property, and all such suits now pending or hereafter brought shall be dismissed, as to the State or such officers, on motion, plea, or demurrer of the law officer of the State or counsel employed for the State.

SEC. 3. *Be it further enacted*, That the public welfare requiring it, this Act shall take effect from and after its passage. 612

Passed February 21, 1873.

W. S. McGAWGHEY,
Speaker of the House of Representatives.

A. T. LACY,
Speaker of the Senate.

Approved February 28, 1873.

JOHN C. BROWN,
Governor.

613 *Journal of the Convention* 1834, *p.* 153.

Resolved, That the State and county internal improvement shall be forever encouraged by the Government of this State ; and that it shall be the duty of the Legislature, as soon as it may be, and from time to time, to make provision by law for ascertaining the most proper object of improvement, in relation both to roads and our navigable waters, pointing out the particular description of either, most practicable to be effected at
614 the most reasonable expense ; and that it shall also be their duty to provide by law for a systematic and economical application of any funds at any time appropriated to these objects, all to be under a due course of accountability, at fixed and short periods ; and to these ends, that the same be placed under the superintendence and direction of a Board of Public Works, the Commissioners of which shall from time to time be appointed by the Legislature, the President of which shall from time to time at fixed periods report the
615 amount, application and other particulars of and relative to said funds and proceeding of the Board, to the Legislature, who shall order publications thereof to be made and distributed for the information of the people, at the close of each stated session of the Legislature, together with a statement of the situation and progress of each description of such improvements, to be filed and recorded in the office of the Secretary of State, subject to the call and inspection of the Legislature, either branch thereof, and to that of the Governor, for the
616 information of the Legislative and Executive Departments of the Government.

CONSTITUTION OF TENNESSEE OF 1834.

ARTICLE XI.

SEC. 10. Knowledge, learning, and virtue being es-

sential to the preservation of republican institutions, 617
and the diffusion of the opportunities and advantages
of education throughout the different portions of the
State, being highly conducive to the promotion of this
end; it shall be the duty of the General Assembly in
all future periods of this government, to cherish literature and science. And the fund called the *Common School Fund*, and all the lands and proceeds thereof,
dividends, stocks, and other property of every description whatever, heretofore by law appropriated by the
General Assembly of this State, for the use of common 618
schools, and all such as shall hereafter be appropriated
shall remain a *perpetual fund*, the principal of which
shall never be diminished by legislative appropriation,
and the interest thereof shall be inviolably appropriated to the support and encouragement of common
schools throughout the State, and for the equal benefit
of all the people thereof; and no law shall be made
authorizing said fund or any part thereof, to be directed to any other use than the support and encouragement of common schools; and it shall be the duty of 619
the General Assembly to appoint a board of Commissioners for such term of time as they may think proper,
who shall have the general superintendence of said
fund, and who shall make a report of the condition of
the same, from time to time, under such rules, regulations, and restrictions as may be required by; *Provided*, that if at any time hereafter a division of the
public lands of the United States, or of the money
arising from the sale of such lands, shall be made
among the individual States, the part of such lands or 620
money, coming to this State, shall be devoted to the
purposes of education and internal improvement; and
shall never be applied to any other purpose.

621 ## Message of Gov. James C. Jones.

October 19, 1841, p. 92.

In making this my first communication to the General Assembly it is a cause of no ordinary gratification to me to be permitted to present to your consideration my convictions of the policy proper to be pursued in disposing of moneys that may arise from the sale of public land and which Tennessee will be entitled to receive. Congress at the late extra session passed a law
622 providing for the distribution of the proceeds of the public land among the States according to their population. It is not necessary that I should trespass upon your attention by an argument to prove the justice or wisdom of this policy, both of which I know will be fully demonstrated by its effects. The question that more immediately demands your most serious consideration, is what disposition shall be made of the moneys that Tennessee will be entitled to receive under the provisions of this law. By the constitution
623 of our State, the funds accruing to the State from this source, have been set apart to specified purposes. It is provided that should a division of the public land or the moneys arising from the sales be made among the State, that portion coming to this State shall be devoted to purposes of education and Internal Improvement, and shall never be applied to any other purposes. The constitution is silent as to the mode of devoting this fund between the two objects specified, whether it shall be equal or unequal, but inasmuch as there is no speci-
624 fic injunction, it is reasonable to suppose that they intended it to be equal. I cannot urge too strongly on your consideration the propriety of setting apart at least one half of the moneys that may be received from this source as a fund, that may be applied to the redemption of the Internal Improvement bonds of the State at their maturity. If this disposition be made, it would doubtless have a fine effect on the credit of our securities, and tend greatly to enhance their

value. The liabilities of our State are less than any 625
State of the Union of her resources, and still her securities
are at a ruinous discount. If a permanent provision
can be made for the liquidation of her liabilities at
their maturity, it would inspire capitalists with confidence
in their solvency, and contribute greatly to increase
them in value. If this policy should be adopted,
the money should be deposited with the Bank of Tennessee
to be loaned and accounted for as other funds of
the State. This would add greatly to the means of
this institution, and enable her to afford increased 626
facilities to our citizens.

MESSAGE OF GOV. JONES.—OCTOBER, 1845.

P. 5. Of the importance of a well regulated system
of Internal Improvements I entertain no doubt that
such system would afford great facilities to the enterprise
and industry of the country, developing its resources
and stimulating its energies is certainly true. No 627
one estimates its benefits more highly than I do, and
no one would rejoice more highly than I would to see
a gradual and permanent system engrafted in the policy
of the State. Gladly would I contribute by all proper
means to its establishment; that such works are greatly
needed in many portions of the State no one will doubt.
In the Eastern division, from its insulated position, and
the very imperfect and uncertain navigation of its
streams, such facilities would be of great value and utility.
But much as these benefits are conceded to be, 628
their importance does not in my judgment justify a
resort to that most destructive financial policy of raising
means by the extension of the credit of the State,
in issuance of its bonds. The bonds that have already
been issued, have been sold at a discount from twenty
to fifty per cent., and yet the State is bound to redeem
them at their nominal or par value. This objection to
a further issuance of the bonds of the State is a for-

629 midable one, yet there are others of far greater magnitude. Any policy that contemplates an enlargement of the debts of the State at the present time, I should consider of dangerous tendency. In the name of justice and honor let us issue no more bonds; let us create no more debts, until we have either paid those we owe, or made some certain provision for them as they come to maturity.

630

MESSAGE OF GOVERNOR BROWNLOW.

Executive Session, 1868, Page 10, Acts of 1868.

GENTLEMEN OF THE SENATE and HOUSE OF REPRESENTATIVES:

I communicate herewith, to the Legislature, a Report from the President of the Evansville, Henderson and
631 Nashville Railroad Company, setting forth the manner of expenditure of two hundred thousand dollars of Tennessee Bonds, and other funds received for the construction of the Evansville, Henderson & Nashville Railroad, from the terminus of the Edgefield and Kentucky Railroad, at the State Line, northward in direction of the CoalMines, and exhibiting the condition and progress of this important line of road. It is a satisfactory exhibit, showing the completion of 25 miles of road from the terminus of the Edgefield & Kentucky
632 Railroad, and 32 miles constructed from the Ohio River at Henderson, southward, with 6½ miles nearly completed, with material and means to build it to Madisonville, 38 miles from the Ohio River, being 63 miles of road completed, and in operation by this date, leaving 35 miles to be built, to complete the road through the coal fields, from Nashville to the Ohio River, furnishing another and most important connection from Nashville with the Northern system of railroads.

This line of road is of the greatest importance to our 633 State and people as it will supply a competing line of transportation, exempting our people and their commerce from the unreasonable and exorbitant rates of an exacting monopoly, adding a new value to the Edgefield & Kentucky Railroad, redeeming the interest of the State in it, and furnishing an abundant supply of superior coal for manufacturing and domestic uses in Nashville, and a large part of Middle and West Tennessee. It appears to me, the report manifests a faithful and judicious management of the funds, and 634 the results accomplished show that economy and integrity characterized the management.

The report is submitted for your information and consideration. I also communicate for your consideration and information, a Report from the Superintendent of the Edgefield & Kentucky Railroad, setting forth the operation of the road from November 15th, 1867, to November 1st, 1868, together with a copy of the contract with the Evansville, Henderson & Nashville Railroad, under which the joint roads are being operated. 635

In this connection, I will suggest that a joint Special Committee of the General Assembly be appointed to make settlement with the *present incumbent*, and late Receiver of the Edgefield and Kentucky Railroad.

I do this, because the late Receiver has refused to settle with the present incumbent, and expressed a desire to settle with a Legislative Committee.

There is no law shown to me, making it the duty of the President of the Evansville, Henderson and Nashville Railroad Company, or other officer of that com- 636 pany, or of the Edgefield and Kentucky Railroad, to render reports to the Governor of the State; and I presume it is done in pursuance of their sense of duty, and through some channel, to give the information contained in their reports to the authorities of the State. There is a prevailing impression that the Governor has authority to make settlements with Receivers, and coerce settlements from them; and that it is his duty

637 to look after Receivers, and take care of this great interest of the State.

There is no law giving such authority, or imposing such duty. The Governor has the power of appointment and removal of Receivers. The law makes it the duty of the *Comptroller*, to settle with Receivers of Railroads. I call your attention to Section 1105 of the Code of Tennessee, which reads as follows: "*The Comptroller shall, from time to time, settle with the Receiver, who shall, forthwith, pay into the Treasury*
638 *any surplus fund in his hands.*"

It would appear that the Comptroller has no power to compel Receivers to settle, unless it arises by implication, from the mere grant of authority *to settle.* Certainly the Governor has no power or authority to settle with Receivers, or give orders to enforce any settlement.

The Legislature must supply this deficiency in the law, and provide the remedy to coerce settlement.

It has been intimated that the bonds of the State, is-
639 sued to railroads, have been misapplied, and directed to private use, and in my annual message of the 8th of October, 1867, I called the attention of the Legislature to the subject, in these words: "*I advise the appointment of Commissioners, by your body, to sit during your session, and make new settlements with all the roads, that the books may be made to show all settlements satisfactory, both to the State and the Companies. The expense of such settlement will be more than compensated for by rescuing the accounts from ruinous*
640 *oblivion.*"

In view of doubts entertained as to the proper, legitimate application of the bonds of the State issued to railroads, I feel it a solemn duty to urge upon you, as in a former Message, the appointment of a Board of Commissioners with full and complete power, and authority to settle with all Receivers and others, who have received the bonds of the State, and compel them, by due course of law, to final and full settlement. In my

Annual Message before referred to, in discussing this 641
subject, I took occasion to say, "*Meanwhile let us guard against any future increase of the State debt by issuance of Bonds to railroads, unless it be in cases where the interest of the State would suffer for the want of further aid.*"

And in my communication to you on occasion of your assembling in your present adjourned session, I expressed the same views. "The continued failure to make settlement with Receivers, and the detriment to
the public interest arising from such failure, has led to 642
the opinion that the office of Receivers should be abolished, and probably caused the presenting of the Bill now pending in the Legislature, and which has passed our House, to restore the railroads to the companies.

Believing that this Bill, if it should become a law, will be fatally injurious to the credit of the State, I beg leave to offer my reasons for this conclusion.

The internal improvement policy of the State, established by the act of February 11th, 1852, has been
deemed by our wisest men of all parties, since its 643
inauguration, as a prudent, practical, and wise system. By it, the State: (1.) Invited its citizens and encouraged them to use their surplus means to develop the State, (2.) She combined her means with those of the citizens, and issued her bonds to railroad companies to secure the construction of the roads. (3.) She indemnified herself by retaining a prior lien on the road so as to give credit to her bonds with the railroads as a basis without looking to taxation of her people. (4.) To render
certain and available this security for her Bonds, she 644
reserved the right to take possession of the roads on their failure to pay the interest on Bonds issued to them, and operate them by her own agents. (5.) And she reserved the power to sell them on failure of payment of bonds; and to render herself more secure, she reserved the power, by Section 12, to enact all laws necessary to protect her rights and interest, and secure her from loss.

645 The leading features of this system of internal improvement and characterizing it, appears to me, to be: 1st. Generous and liberal aid from the State to railroads. 2d. Complete security to the State for that aid.

And this very security, by reservation of a *prior* and *superior lien* upon every railroad which received bonds in aid of it, is held forth by our Internal Improvement law as the basis of credit for the bonds.

The State pledged herself, in the issuing of the bonds by the law, to maintain this lien and enforce it by holding possession of the roads if they failed to pay the 646 interest, and to sell them to pay the bonds. The good faith of the State is pledged to this. The bondholders so understood it when they purchased the bonds. The people of the State so understood it, for they never believed they were to be taxed to pay the interest or principal of the bonds until the means arising from the sale of the roads had been exhausted.

The State, in point of honor and fact, holds this lien in a fiduciary capacity. She holds it in trust for the 647 benefit of the bondholders. She honorably has no right to abandon it or surrender it to the companies. She ought not to prove faithless in this trust, but maintain and execute it as the bondholders understood it and as the people of the State understood it. The bondholder is interested in this resource to pay the bonds he holds, and the people are interested in it, to see that they are not to be taxed to pay interest or principal of bonds for which the railroads are pledged by the terms of the law.

Does not, I respectfully submit, the "*Act to abolish* 648 *the office of Receivers of Railroads, and for other purposes,*" now pending before the Legislature, ignore the honor of the State; disregard the plighted faith of the State to carry out the principles of the law of 1852, and maintain and enforce the lien on the railroads, in providing that the office of Receiver shall be abolished, and the roads turned over to the companies?

I respectfully invite the attention of the Legislature to Section 2 and to Section 3 of the bill. Section 2 requires the Receiver, within five days after the passage 649 of the Act, to turn over the railroad, rolling-stock, effects, etc., to the company.

Section 3 requires the treasurer of the company, *forty days after* coming into possession of the road, effects, etc., to enter into bond, etc., conditional that the net earnings of the road shall be paid monthly into the Treasury of the State.

Now, I submit to the Legislature whether this is not a surrender of great interests of the State and an abandonment of a sacred trust without guards or guarantees. 650 The Bonds of the State, any money arising from bonds, or other sources, as well as all other effects in the hands of any Receiver are turned over without any security or even an agreement to account for them, and the railroad company is to remain in possession of them *forty days* before any bond is given, and then only a bond to pay the net monthly earnings into the Treasury of the State.

What is to become of effects of the road in the hands of the Receiver? the Bonds of the State he may hold, or other funds or money in his hands? Is it given to 651 the company not to be accounted for? Why is *forty days* allowed to give the bond? Is time to be given to make way with, or dispose of, the "effects," State Bonds, money or other securities? Why is *forty days* fixed as the time for responsibility to begin? I submit to the Legislature whether the provisions of this Bill are not calculated to arouse the gravest suspicions.

Besides, the Bill ignores the fundamental principles of the Internal Improvement Law, security to the State, and protection of its interest; and thus abandons the 652 faithful execution of the *trust* by which the railroads, and all their property, shall be subjected to payment of interest and principal of the bonds.

If the law of 1852 is defective, supply its defects; enact laws for its enforcement, but preserve the important fundamental principle of the law; that is, hold the roads for the payment of the interest and principal.

653 I believe the Receivers should be required to perform the duty imposed by law, and with proper enactments can be made to do it.

I am not wedded to the system of Receivers, but I do regard it as all important to the honor and interest of the State to preserve and adhere to the great principles of the law of 1852, and to faithfully execute the *trust* arising under the law and implied by the action of the State.

I am persuaded, after consultation with some of the
654 best lawyers of the State, that the reservation of authority under the 12th Section of the law of 1852, gives ample power to the State to sell these railroads; and as indicated to you in my last Message, I believe the interest of the State will be promoted by a sale of them.

The views I have now expressed I have derived after consultation with eminent lawyers and wise, patriotic citizens. I feel no personal interest in this matter. In regard to the great railroad interest of the State, and in
655 regard to all other great interests touching the welfare of the people and honor of the State, I have acted from a sense of duty. I am desirous that the true interests of the State shall be subserved, and its good faith and honor remain untarnished.

In conclusion, I would join you in thanks to God for His blessings upon our State and her people through the year just closed, and in prayers to Him for divine guidance of all her servants, in all the duties to which they may be called, and for His richest
656 blessings upon you, and all the people of the State.

W. G. BROWNLOW.

Nashville, Tennessee, Jan. 4th, 1869.

Acts of 1868, Ex. Sess., p. 10.

REPORT OF THE AGENT OF TENNESSEE 657

ON THE AFFAIRS OF THE EAST TENNESSEE AND GEORGIA RAILROAD.

MECKLENBURG, near KNOXVILLE, TENN.,
September 20, 1851.

To His Excellency WILLIAM TROUSDALE, Esq.,
Governor of Tennessee.

SIR: I have already acknowledged the receipt of the commission you were so kind as to confer upon me, under the Act of January 30, 1851. It remains for me to report to you the results of my agency up to the present time. After I received my commission I entered at once upon the duties involved in the appointment. First, these were to convert into money the bonds of the State placed under my control; and second, to disburse their proceeds in payment of the iron and equipment of the East Tennessee and Georgia Railroad. 658

In the discharge of these duties, I instituted a correspondence with capitalists and brokers relating to the negotiation of the bonds, and also with manufacturers in this country and in Europe, in relation to the rails and machinery necessary to put the road in operation. The result of this correspondence was a conviction that so large an amount of Tennessee securities could not be satisfactorily negotiated without a personal inspection of the bond market in our Northern cities, and that the purchase of the different articles necessary for the road could be more advantageously and economically made by an examination of the workshops and a personal interview with manufacturers. Accordingly, in July last, I visited Baltimore, Philadelphia, New York and Boston. By inquiries there I ascertained that Tennessee bonds had heretofore generally been sold below, and had rarely reached par, while the bonds of other States having a larger indebtedness and smaller resources and population, have sometimes commanded a 659 660

661 premium. My surprise at this seeming paradox was
greater when I learned that in all time past the interest
on Tennessee bonds had been, in every instance,
promptly met, even at periods when a pressure of
money affairs had forced upon other States a temporary
suspension of semi-annual payments of accruing
interest. This is in part explained by the consideration
that the indebtedness of Tennessee, though considerable,
is comparatively small, and that many of her
bonds being in the hands of holders at home, her ability
662 and punctuality in meeting her engagements were
known to few in the Northern markets, some of the
brokers there having rarely seen Tennessee bonds, while
those States less remote, and having a larger public
debt of many years' standing, and being in the hands of
every one, their promptness in meeting the interest
being thus long and extensively known and tested, were
rated at a higher value, just as a borrower and endorser
in the immediate vicinity of a bank where he is
known as an old, constant, punctual customer, has
663 more credit than a new and distant borrower of much
greater ability to pay.

Restricted as I was by the provisions of law from
selling below par, and desiring to increase the value of
the bonds placed in my hands, I took the earliest opportunity
during my visit to the North to exhibit to the
brokers the very favorable condition of the finances
of Tennessee as presented in the last report of
the Comptroller of the State. From that exposé
it was shown that the present liabilities of the treasurer
664 are comparatively small; that the public works for the
construction of which these liabilities had been probably
in part incurred, were, even in their unfinished
condition yielding three per cent. to the revenues of
the State, and that the inference might be legitimately
drawn that when these works should be entirely completed,
they would divide, at the lowest calculation, six
per cent. upon the cost of their construction.

From these representations, and others of analogous

character, I succeeded in raising the value of the bonds, 665
and was able to sell the amount needed previous to
January of this year at a premium, the rate of sales
made up within that time ranging from 103¼ to
104½. Early in this year, I went forward with an additional supply of bonds. In the meantime the condition of the money market had materially deteriorated.
The prices of the great American staple had suddenly
gone down. Cotton has become the thermometer of the
commercial world, and with its decline, probably,
bonds and securities of all kinds were instantly de- 666
pressed, and with them the bonds under my control.
For some time no bid was offered which I could entertain, but needing funds for the purchase of iron, and
unable to wait longer for an expected reaction in the
stock market, I was forced to sell at a rate below my
first sales, but still above par. In June I carried forward the remaining bonds. The depression since that
time increases, and still continues, and affects the quotations of other issues of Tennessee bonds below par.
The stringency in the money market has, I hope, 667
reached its crisis, and I may be able to affect sales from
remaining bonds so as to realize an advance, at least
upon a portion of those unsold. This, however, is
wholly dependent upon the fluctuations of the market.

In justice to the officers of the State under whose direction the bonds were prepared and executed, I should
add, the engraving is beautiful, the paper excellent
and the filling up of the bond and its coupons neatly
and accurately done. The style of execution will compare favorably with that of any other State in the 668
Union.

* * *

Your Excellency's obedient servant,

J. G. M. RAMSAY,
Agent of Tennessee.

669 *Report of Joint Select Committee to ascertain the number of Acts and Journals.*

Page 292. Total ordered, 3,056: to be sent to each one of the United States, one copy of the Acts; thirty-one to be given to the Government of the United States; ten for the State Courts, &c., making total Acts for distribution, 3440.

James T. Dunlap, Chairman on the part of the Senate.
670 Wm. H. Wisener, on the part of the House.

CIRCULAR OF STATE AGENT.

The following communication to the New York Times, written by the undersigned, is published in pamphlet form at the request of several former citizens of Tennessee now residents of New York. 671 All the statistical facts given are derived from the official reports of the officers of the State.

S. WATSON.
Agent for the State of Tennessee.

Tennessee State Credit and Resources.

To the Editor of the New York Times:

* * * The injurious charge, or insinuation rather, is made by your correspondent, that the 672 State has been guilty of reckless extravagance in aiding worthless railroads. That, in an appropriation of several millions of dollars, some roads should get aid who are not deserving, would of course be expected. But a detailed examination of railroads of Tennessee will show that there are but few if any roads of this character aided.

The Edgefield and Kentucky Railroad runs from

Nashville to the Tennessee and Kentucky State line. 673
There it was expected to be united to the Henderson and Nashville Road, which runs from the point of junction through Hopkinsville and Madisonville to Henderson and Evansville on the Ohio River. The Kentucky Road not having been completed before the war, and the Edgefield and Kentucky Road consequently ending in the woods, its interest has never been paid. But the Henderson and Nashville is now in rapid progress. The road is graded from the State line north to
Hopkinsville, a distance of about 25 miles, and the iron 674
rails probably laid by this time to that point. Much of the road is also graded from the Ohio River south, and a good deal of track laid.

The length of these two roads is 150 miles—fifty miles in Tennessee and one hundred in Kentucky. They run through the richest agricultural region in the West. Seventy-five miles from Nashville they strike an inexhaustable bed of rich bituminous coal. There are three strata of this coal, one of them a little over *six*
feet in thickness, and the road runs just below the 675
lowest strata. At Evansville these roads are united to the whole system of railroads in the great Northwest, and will make almost an air line communication with Chicago, and it is but a few miles further to New York by this route than by the Louisville and Nashville Road.

The aid of $300,000 given to the Edgefield and Kentucky Road will secure the immediate completion of the Kentucky end of the road to the coal mines. Thus bringing these rich mines to Nashville, and the whole
of Middle and West Tennessee; could there be a doubt 676
that the future coal trade alone over the Edgefield and Kentucky Road will enable it to pay the interest on its debt to the State?

The completion of the road referred to will also greatly benefit the Memphis and Ohio, and the Memphis, Clarksville and Louisville road. These two roads together form a line of road running from Memphis through Clarksville in the direction of Bowling

Green, Ky., and intersecting the Nashville and Henderson Road at the State line. One of them passes through the rich iron region lying between the Cumberland and Tennessee rivers. The supply of coal for Memphis, Clarksville, the iron works and all intermedate points, must go over these roads, thereby greatly advancing their future paying value. These roads have not heretofore, since the war, paid their interest. But so great is the confidence of the Louisville and Nashville Railroad Company in the future of these roads, that the company, one of the wealthiest and most ably managed railroad corporations in the United States, has leased the Memphis and Ohio Road for ten years, and is now paying its interest on its debt, and has proposed to buy the Memphis, Clarksville and Louisville Road, offering to pay its floating debt, the back interest due the State, amounting now to $220,272, the whole of its debt to the State, and also to pay the stockholders a portion of their stock. Can any stronger evidence be given of the future paying of these roads? The payment of their interest hereafter is certainly beyond doubt.

One of the roads aided by the last act of the Legislature is the Nashville and Northwestern. This runs from Nashville to the Mississippi river, and has its terminus on that river, in the edge of Kentucky. On the opposite side of the Mississippi it meets the Iron Mountain Railroad, which is being built from St Louis down the western bank of that river. An appropriation has also been made to enable the Northwestern road to build a short branch which will connect it with the roads leading to New Orleans and Memphis.

The Nashville and Northwestern Road has but very recently been completed to the Mississippi, and is unprovided with rolling stock, and, of course, could not be expected to pay its interest. The recent appropriations of the Legislature will fully equip it and build the branch referred to, and Nashville will then have, by this road, a very direct communication with St.

Louis, the shortest and most direct communication wih 681
New Orleans, and almost an air-line route to Memphis.

Ought not a road running part of the way through a rich iron region, running over the fertile soil of West Tennessee, and having such connections, be relied on to pay at least its interests on its debt to the State?

The Nashville and Decatur is one of the roads aided.
It crosses some very winding streams, and has an un-
usual number of bridges and a large amount of trestle-
work, all of which needs rebuilding. It is —— miles
long, and runs from Nashville to Decatur, Alabama. 682
Means have been provided for its extension to Mont-
gomery, in Alabama. This, when completed, will give
Nashville almost an air-line communication over this
road to Mobile and Pensacola, on the Gulf of Mexico.
This road has always paid its interest out of its pro-
ceeds, and will be still more certain to do so in the
future.

The Nashville and Chattanooga Road has always paid
its interest and needs no aid. This road has two
branches leading off from it—one called the McMinn- 683
ville and Manchester, starting about seventy-five miles
from Nashville, and running northwardly to McMinn-
ville, thirty-four miles in length—the other, called the
Winchester and Alabama Road, starting about eighty-
five miles from Nashville, running southwardly through
to Fayettville, thirty-eight miles in length.

The rolling stock of these roads were run off, their
depots and bridges destroyed, and all the iron rails on
both roads removed elsewhere by the United States
Military authorities. 684

The McMinnville and Manchester road has just been repaired, and the appropriation to the Winchester and Alabama road has been made to enable it to complete its repairs. Both roads were run by the Chattanooga road before the war. The Southwestern road is to be a continuation of McMinnville and Manchester road, north. The building of this road will be rendered unnecessary by the building of the Nashville and Pacific road.

685 The Memphis and Little Rock Railroad, although out of the State, is really a Tennessee road, being built principally by Tennessee capital. The road was almost entirely destroyed by the war, and has been wholly unable to pay its interest. But it is being rebuilt, and contracts have been entered into for its entire completion. Can any intelligent man doubt that a road, running from the capitol of the State of Arkansas to the principal commercial city of Tennessee, will pay its interest on its debt to the State when it is rebuilt.

686 The Memphis and Charleston road, although badly crippled by the war, has promptly paid its interest, and so has the Mobile and Ohio, the Mississippi Central and the Mississippi and Tennessee roads.

The East Tennessee and Georgia and the East Tennessee and Virginia roads have always paid their interest promptly, and need no aid.

* * * * * * * *

687 The Knoxville and Kentucky road has paid its interest. It runs from Knoxville through the rich coal fields of East Tennessee, and it is intended to meet at the Kentucky State line the Lebanon branch of the Louisville and Nashville Railroad. It is already completed thirty-two miles, has fifteen additional miles graded, and is supplied with rolling stock for its local traffic. The appropriation of $800,000 will certainly complete it to the State line. It has already penetrated the coal fields, and is supplying Knoxville with coal,
688 and over this road will be transported the coal to supply Macon and Augusta, and other immediate points in Georgia. It not only opens up the rich coal fields and iron mines of East Tennessee, but on its completion will give the fertile valleys of that section of the State access to the markets of the country, both North and South. Its coal traffic alone should pay the interest on its debt.

The Knoxville and Charleston road, "Philo" asserts,

owe $615,000, and runs but one mile. This is wholly 689
untrue. This road is nearly completed sixteen miles, and when finished that distance and equipped will owe the State only $325,000 in all. This road is to meet a road being built from Charleston in a direct line to Knoxville.

The Cincinnati and Cumberland Gap Railroad is now running twenty-five miles, with its grading completed twenty miles further, at which point it meets at the North Carolina line a road now building from Asheville. These two latter roads when completed will give 690
Knoxville and East Tennessee direct connection with the seaboard in the Southern Atlantic States, and thus render her system of railroads complete, and open up to the world her rich mineral resources, and bring the products of her rich valleys to the nearest and best markets, both North and South.

The Nashville and Pacific Railroad is another road that is to receive the aid of the State. But it can receive no aid until its stockholders grade thirty miles of the road and have it ready for the iron. It then re- 691
ceives State aid to iron it, and upon every additional twenty miles being thus graded it is to receive the State aid to iron the twenty miles.

This road is destined to run from Nashville to Knoxville, and will at some day run directly to Bristol on the Virginia and Tennessee State line, there meeting the railroads of Virginia that lead directly to Norfolk. Its completion, and this is rendered certain, and the completion of the short branch of the Nashville and Northwestern Railroad before referred to, will furnish 692
almost an air line of railroad from Norfolk in Virginia through Nashville and Memphis to Little Rock. No one can doubt that this in a few years will be extended to the Pacific, either to the Port Guayamas, on the the Gulf of California, or to some point in the State of California.

This route will run through the richest agricultural part of the United States, will be free from ice and snow, 693 and the shortest route from the Atlantic to the Pacific.

New York will yet see the day when her shortest and best highway to the Pacific Ocean will be through the State of Tennessee, and over her projected Nashville and Pacific road.

We have given the above detailed description of the railroads in Tennessee, with their connections, so that every one may be enabled to judge of the importance of each road, and the perfection of her entire system.
694 It must be obvious that there are very few of her roads, and those very short ones, that are not necessary to the development of her resources. When finished, Knoxville will be the centre of the system of the East, and her roads will connect her with all important points in the Union. Memphis has her system of roads leading to all parts of the Mississippi Valley.

Nashville, the capitol of the State, is the centre of the whole system, and her railroads, when completed, will give her close connection with all the cities of the
695 northwest, and make her the point through which the great highway from the Atlantic to the Pacific must pass.

Has not Tennessee shown her wisdom in pledging herself to the support of such a system of roads?

At the close of the war almost all the roads of Tennessee were nearly in ruins. The State immediately came to their aid, and set them upon their feet again; and finding that additional aid was necessary to fully repair her roads and fully complete her system, she has
696 by the recent act of her Legislature promised additional aid, that may reach the sum of about $4,000,000. But it must be years before this entire sum can be called for, a large portion of this aid being dependent upon the prior grading of the roads by the stockholders. The State has not acted hastily nor rashly in this legislation, but after full investigation of the claims of each road, and a careful consideration of the importance of her entire system. The most enlightened of her taxpayers be-

lieve her action to have been one of wise and judicious 697
liberality, and so we believe those will think who are
interested in her securities.

Prior to the war every road in Tennessee, excepting the Edgefield and Kentucky, and perhaps the Winchester and Alabama roads, paid the interest on the bonds loaned them. The receipts of all the main lines of railroads, and it is believed of almost all the roads of Tennessee, are greater now than before the war.

The important question for the bondholders now is:
What security have I for the payment of the principal 698
and interest of my bond? The State debt proper is only about $4,000,000. The railroads and all their rolling stock are mortgaged to the State to secure the payment of bonds loaned. This mortgage, as bondholders must know, inures to their benefit. For the payment of $29,000,000 of bonds, which will be the entire amount of bonds issued to the roads, including those that may be issued under the recent act of the Legislature, the bondholders have as security roads, which,
when completed, will be nearly 2,000 miles in length, 699
and which will have cost, and which will be worth, fully $70,000,000. In addition to that they have the whole resources of the State solemnly pledged to them.

700

701 RAILROADS NOW PAYING AND THAT ALWAYS HAVE PAID THEIR INTEREST.

	Bonds Loaned, including Interest Funded.	Bonds Endorsed by the State.
East Tennessee and Virginia,	$2,688,100	$ 197,000
Memphis and Charleston,	1,643,980	
Nashville and Decatur,	2,115,176	
Nashville and Chattanooga,	395,000	1,546,000
East Tennessee and Georgia,	1,690,120	126,000
702 Knoxville and Kentucky,	1,353,200	
Memphis and Ohio,	2,396,110	
Mobile and Ohio,	1,684,800	
Mississippi and Tennessee,	317,800	
Mississippi Central,	1,078,980	
Knoxville and Charleston,	300,000	
	$15,663,266	

703 ROADS NOT NOW PAYING, BUT WHICH WILL CERTAINLY PAY, AND PROBABLY BY THE END OF THE YEAR.

Edgefield and Kentucky,	$1,070,167
Memphis, Clarksville and Louisville,	1,894,600
Nashville and Northwestern,	3,064,860
	$6,029,617

ROADS NOT NOW PAYING.

704

Cincin., Cumb. Gap and Charleston,	$ 985,680	
McMinnville and Manchester,	851,360	
Winchester and Alabama,	1,098,259	
Rogersville and Jefferson,	393,161	
Memphis and Little Rock,	105,000	350,000
	$3,433,459	

MEMORIAL OF SHELBY COUNTY. 705

To the Legislature, Dec. 18, 1851.

(1) These improvements can be made without being burdensome to the people, as they will be diffused over the whole State, provided she will loan the different railroad companies her *bonds* for an amount sufficient to purchase the iron rail and equipments.

(2) The State can give this aid without a reasonable
prospect of loss by reserving a lien on the roads for the 706
final payment of principal and interest to an amount
not exceeding six thousand dollars per mile, which it
is believed will be amply sufficient to purchase the iron
and equipments.

ROBERTSON TOPP,
ARCHIBALD WRIGHT,
W. B. NICHOLSON,
R. TALIAFERRO.

707

TENNESSEE HOUSE JOURNAL, 1851-2, p. 62.

Tuesday, October 14.

Mr. Campbell of Washington introduced the following resolution No. 14.

Resolved, by the General Assembly of the State of
Tennessee that the Committee on Internal Improve-
ments be instructed to report a bill embodying the fol-
lowing provisions, viz.: 708

1. That the State give aid to specific railroad companies which are or may hereafter be chartered as follows: To assist companies which are or may be hereafter formed to build a line of railroad from the Virginia line to a place called Madrid Bend on the Mississippi River within the limits of the State of Tennessee, said line of road to be constructed by the East Tennes-

709 see and Virginia Company from the Virginia line to Knoxville, from thence to Charleston by the Georgia and East Tennessee Company, from thence to Chattanooga by   Company, which shall be chartered from thence to Nashville by the Nashville and Chattanooga Company; thence, if practicable, to the Madrid Bend on the Mississippi River. Also to give like assistance to the Nashville and Louisville road to be extended from Nashville to the nearest point of intersection with the Memphis & Charleston
710 Railroad within the limits of Tennessee.

2. The amount of aid to be received by each Company from the State shall be sufficient to complete the road, and put the cars upon it, after the company has fixed the timbers down upon the road ; ~~[illegible]~~ the bonds of each company shall be so executed ~~included~~ that the company shall endorse for the State. Said bonds to be redeemed by the Company.

711 3. That the interest of the bonds of each company shall be paid by the company as it accrues before the State becomes liable for the bonds of ~~the~~ a Company. The State shall be made secure against the liability of loss by the company. Provision shall be made requiring each company before it receives aid from the State to agree to commence laying the rail~~road~~s at a terminus or in the line of some railroad or on the margin of some navigable river.

712 4. That provisions be made by law to give the State the privilege if she choses to become a permanent owner in any road which she may have aided in building to the amount of the assistance which the company received from the State. This discretionary privilege shall not vest in the State until after the expiration of thirty years from the completion of each road ; provided that in all cases the State shall pay to the company the amount of bonds it may have redeemed at the time with interest and its accruable value thereof.

Page 260. Mr. Martin introduced the following re- 713
olution No. 66.

Whereas, from many indications manifested by this General Assembly it is apparent that this General Assembly will engage in works of general improvement that must result directly or indirectly in involving the State in a debt of millions.

And Whereas the several propositions now before
this General Assembly if carried out must result in in- 714
volving the faith and credit of the State without any
results beneficial to the State other than developing its
national resources.

And Whereas it comports better with true progress that the aid of the State should not involve her credit for millions without a reasonable remuneration for its aid in return.

Therefore resolved, that the Committee on Internal
Improvements be instructed to inquire whether the best 715
interests of the State would be promoted by the con-
struction of a railroad from her Eastern limits or boun-
dary connecting with some line of railroad communica-
tion to the Atlantic running as nearly as practicable
westward to the Mississippi River, and that such road
should be constructed exclusively upon the credit and
resources of the State and when completed to be the
exclusive property of the State, giving to individual en-
terprise and capital the privilege of connection by all
such lateral roads as may thus be constructed. 716

Resolved that the Committee on Internal Improvements be instructed to inquire whether the credit and resources of the State are such as to justify her in embarking in the construction of such a road; and if they deem the same expedient that they report the necessary bill or bills to consummate the object indicated in the foregoing resolution.

717 P. 305.— Friday morning, November 28, 1851.

Mr. Houston, Chairman of the Committee on Internal Improvements, reported on bill No. 107 to authorize the Governor of the State to endorse the bonds of the East Tennessee and Virginia Railroad Company. The committee introduced a bill in lieu and as amended, and recommended its passage as amended. On motion the House adopted the bill in lieu of the original and as amended, and the bill passed on its second reading.

718 Mr. Jackson introduced the following report, viz.:

The undersigned a minority of the Committee on Internal Improvements constrained by a sense of duty to their constituents and by a wholesome regard for the public weal, dissent from the report of the majority recommending the passage of the bill granting three hundred thousand dollars extra aid to the East Tennessee and Virginia railroad, ask leave most respectfully to present the following reasons for their dissent.

719 The State of Tennessee from a overweening regard for her credit has for years permitted her fear of debt to restrain the spirit of enterprise which has characterized many States of this Union. She has been too long torpid and indifferent to the objects of her true interest. But under the wholesome influence of the examples of her more spirited and enterprising sisters, by the arguments and persuasions of her most gifted sons, and by the sober second thought of her yeomanry, she is at length aroused, and through the messages of the late
720 and present Governor declares to us that she is now disposed through her Legislature, to advise and adopt liberal and judicious system of internal improvements, and that she is disposed, when individual means and enterprise have begun preparing the local work of important lines of railway passing through her territory, enhancing the value of her soil, swelling her revenue and contributing to the wealth and prosperity of her citizens, as a generous sovereign enjoying the eminent

domain of this fruitful land, loan her credit to enable 721
such companies to iron, equip and set to immediate and profitable work the various important roads which may be deemed by legislative sagacity worthy of such aid, by their prospective profit and proposed mortgages will secure the State against liability to loss. Acting upon this as a governing principle, the undersigned, with a full appreciation of the East Tennessee and Virginia Railroad as one of our great projected thoroughfares eminently worthy to be included in the provisions of a
general bill, has been unwilling to favor this or any 722
other application for extra aid outside of that contemplated for important lines which may be embraced in the general bill.

For it is the local work done by individual means and enterprises in the preparation of the roadbed for the reception of iron and equipments that constitutes the basis of security for the advancement of State aid, and if the means of the State are to be asked and obtained to assist in this preliminary work, the security is lessened,
and for this reason the example should be avoided. 723

The majority of this Committee who recommend this measure to the House, with the exception of two members, are from that division of the State which feels naturally the deepest interest in this important work, and in the exercise of a very common and excusable partiality for home interests have urged this proposition with great zeal and assiduity before the Committee, and it may be anticipated that the representatives of other sectional interests encouraged by the success of this
proceeding and indulging a like desire to gratify their 724
constituents, will apply for similar bounties. When these various applications for special aid are footed up with the liabilities contemplated in the general bill, the undersigned fear that the sum total will excite fearful apprehensions in the minds of ardent and sanguine friends of Internal Improvement and will furnish the opposition with a most potent and formidable weapon of attack.

725 The undersigned actuated by the kindest feelings for the East Tennesee works and with an eye steadily directed to the paramount importance of devising a judicious system which will be readily endorsed and sustained by the great mass of the State, we must earnestly and respectfully ask the members to ponder well before sanctioning this measure.

All of which is respectfully submitted by

ALEXANDER JACKSON,
726 G. C. HART,
J. D. C. ATKINS,
N. B. KING,
L. POPE,
E. A. FERGUSON.

November 26, 1851.

Willy Woodward and Winchester, who were absent
when the vote was taken, concurred with the above
727 signers.

Page 311. Mr. Houston, Chairman of the Committee on Internal Improvements reported on bill No. 182 to authorize and regulate county subscriptions for railroad stock.

P. 271. Mr. Jackson moved that the use of this hall
be granted to Captain Childs, Chief Engineer of the
Mobile & Ohio Railroad, for the purpose of addressing
all who feel interested in the great cause of Internal
728 Improvement, Friday, 21st inst., at 7 o'clock, which
motion prevailed.

P. 296. Mr. Houston chairman of the Committee on Internal Improvements, on resolution No. 14 directory to the Committee on Internal Improvements, the Committee ask to be discharged from the further consideration thereof. On motion said Committee was discharged.

HOUSE JOURNAL, 1851-2, p. 342. 729

The Committee introduced House bill No. 219 to establish a system of Internal Improvements, and this was read first time and passed, and on motion 525 copies ordered to be printed for the use of the House

P. 367. Mr. Hardeman introduced resolution No. 182, directory to the Committee on Internal Improvements, to wit:

Resolved, That the Committee on Internal Improvements be instructed to report as soon as practicable for the information of the House the number of miles of railroad proposed to be assisted by the bill now before the House to establish a system of Internal Improvements in this State, specifying the number of miles in length of each road within this State. The rules of the House being suspended, the resolution was adopted. 730

P. 391. Bill No. 107 to authorize the Governer to issue bonds of the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their road, being the special order of the day, was taken up, and on motion, the amendment of one additional section by Mr. Houston was adopted. 731

Mr. Jackson offered to amend said bill by adding the following proviso, to wit:

Provided, That the bonds of the State shall not be issued to build bridges herein provided for until there is stock subscribed by good and solvent individuals, corporations, companies or counties sufficient to grade the road and put timbers on the same from Knoxville to the Virginia State line, which facts shall be certified to the Governor of the State by the written affidavit of the president and directors of said road; which amendment was adopted. 732

Mr. Davis moved to lay the bill on the table. The ayes and noes being demanded; affirmative voters, 22;

733 negative votes, 48. So the House refused to lay the bill on the table.

Mr. Weisner offered to amend said bill by adding an additional section pending the question of the adoption of the amendment.

On motion the House took a recess.

P. 395. The House then took up the unfinished business of yesterday, House bill No. 107, pending the
734 consideration of which, the House took a recess.

Thursday Morning, December 18, 1851.

P. 403. On motion, the House resumed the unfinished business of yesterday, being House bill No. 107, to authorize the Governor to issue bonds of the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their road.

735 Mr. Guild offered an amendment in lieu of the amendment offered by Mr. Weisner to the fourth section in the said bill, which amendment was adopted.

Mr. Guild moved to amend said bill by adding sections eight and nine to said bill, which amendment was adopted.

Mr. Davis offered to amend said bill as follows:

736 Add Section that before the Governer shall issue any bonds as provided in this Act, said Company shall through and by means of a certificate from the President and Board of Directors of said Company, inform the Governor that the said Company agree that a re-survey of said road shall be made between the Virginia line and Bull's Gap by an Engineer appointed by the Governor, &c.

Mr. Campbell, of Washington, moved to lay said amendment on the table.

Mr. Davis demanded the ayes and Noes; those who voted in the affirmative are 52; those who voted in the negative are 20. So the amendment was laid on the table. 737

Mr. Guild offered to amend said bill by inserting after the words "improvement," at the end of the fifth line from the bottom on the first page in section, the words "or any chief engineer or other person appointed to examine and report upon the works of internal improvement," which amendment was adopted. 738

Mr. Pope offered to amend said bill by adding the following section:

Be it enacted, That bonds of the State shall not issue to said company unless the bonds of the State shall be loaned to the company for the purpose of purchasing the iron and equipments for said road.

Mr. Hubbard moved to lay the amendment on the table; ayes and noes being demanded, affirmative voters were 37, negative voters 34. So the amendment was laid on the table. 739

Mr. Mosby offered the following amendment as a proviso to said bill:

Provided, that the Nashville and Northwestern Railroad, the Nashville and Louisville Railroad, the Memphis and Charleston Railroad, the Mobile and Ohio Railroad, the Nashville and Southwestern Railroad, and every other railroad mentioned in the general railroad bill, reported to the House by the Internal Improvement Committee, shall receive the same amount of State aid upon the same terms and conditions as it is herein proposed to extend to the East Tennessee and Virginia Railroad. 740

Pending the question of the adoption of the amendment, House adjourned.

741 P. 409. December 19, 1851. The House then resumed the unfinished business of yesterday on adjournment, being House bill No. 107, pending the consideration of which the House took a recess.

P. 410. Afternoon session. The amendment offered by Mr. Mosby pending.

Mr. Thompson called for the previous question; the
House sustained the call, and the bill as amended on
742 its third reading was rejected. Ayes, 34; noes 35.

Mr. Campbell, of Williamson, moved a reconsideration of the vote rejecting said bill, which motion was seconded.

Mr. Mosby moved an adjournment until to-morrow morning at 9 o'clock.

Mr. Duganne demanded the ayes and noes. Af-
firmative voters, 12; negative, 55. So the House re-
743 fused to adjourn.

On motion to reconsider the rejecting of said bill, the ayes and noes being demended, those who voted in the affirmative are 41; those who voted in the negative 29; so the vote was reconsidered.

Mr. Wisener moved to refer the bill as amended
to the Committee on Internal Improvements with
instructions to so amend the same as to authorize
the company to issue their bonds for the amount
744 authorized by this bill, and the Governor to en-
dorse and guarantee the payment of the same
on the part of the State with like restrictions,
securities, liabilities and guarantees for indem-
nity as are provided in said bill for the payment of the
bonds and interest thereon authorized to be issued by
said bill.

Mr. Thompson moved to lay the motion offered by

Mr. Weisner on the table; the ayes and noes being demanded, those who voted in the affirmative were 38, noes 32. So the motion was laid on the table. 745

P. 413. The main question was then put, and the bill as amended passed on its third and last reading. Ayes 38, noes 32. On motion, the House adjourned.

Page 417. On motion of Mr. Honston, Bill No. 218, to establish a system of Internal Improvements, was referred to the Committee on Internal Improvements. 746

Page 541. Report to the House on the bill to establish a system of Internal Improvements in this State. The Committee recommend the adoption of sundry amendments to the passage of the bill.

Mr. Martin moved to amend the amendment offered by the Committee to strike out the word "ten" in the seventh line of the first section and insert "twenty."

Mr. Martin moved to insert "forty." 747

Mr. Carical, of Washington, called for a division of the question, and the question was divided and the motion to strike out prevailed. On motion to insert "forty," Mr. Martin demanded the ayes and noes.

Affirmatives, 42; negative, 41.

The motion prevailed, and the motion was adopted.

Mr. Senter moved a reconsideration of the vote adopting said amendment, which motion prevailed.

Ayes, 43; noes, 29. 748

Mr. Martin had leave to divide his amendment, and offered to fill the blank by inserting the word "thirty" which amendment was adopted.

Page 543.

Afternoon session. House Bill 211, to establish a system of Internal Improvements.

749 On motion of Mr. Wisener, the House resolved itself into a Committee of the Whole, Mr. Polk in the chair. After some time spent therein, the Committee reported a bill to the House, with sundry amendments, and asked the concurrence of the House therein. The house concurred in the above amendment of the Committee of the whole, and non-concurred in part thereof, and adopted the amendments offered by the Committee on Internal Improvements in lieu of the same.

Mr. Hubbard offered to amend the first section of 750 said bill in the sixth line by striking out the words "laid down," and inserting the word "deliver."

Mr. Atkin moved to lay said amendment on the table, which motion prevailed. Ayes, 62; noes, 10.

Mr. Miller offered the following amendment, namely: Sec. —. Be it further enacted, That in all cases the said Company shall be required to grade said roads the whole length from terminus to terminus before the State shall issue bonds.

Mr. Stevens moved to lay said amendment on the 751 table, which motion prevailed. Ayes, 59; noes, 14.

Mr. Hunt offered the following amendment to the first section of the bill by striking out the word "eight" at the end of the thirteenth line and inserting "seven," which amendment was rejected.

Mr. Richardson offered the following amendment to the first section, namely:

"And be it further enacted, That no bond shall be 752 issued under the provision of this Act, unless the Governor is fully satisfied that sufficiency of means still remains in the hands of the company after having prepared the road for the iron to lay down the same;" which amendment was adopted.

Mr. Farquarson offered to amend the said bill, by adding the following section:

"Section ., Be it enacted, That this Act shall not take effect, or be enforced in any manner whatever, until the Governor by proclamation shall order an election to be holden in every county in this State; at which election the question shall be for or against the aid of the State to the several works of Internal Improvement proposed by this Act, and the Governor and all other public functionaries shall be governed in their actions by the will of the majority expressed in such election. 753

Mr. Hubbard moved to lay the amendment on the table, which motion prevailed. Ayes, 48; noes, 26. 754

Mr. Wisener offered to amend the Bill by adding the following section. namely:

"SECTION . Be it further enacted, That no bonds issued by the Governor under the provisions of this Act shall be negotiated by the companies to whom they may be issued respectively for less than their nominal value."

755 Mr. Pope called for the previous question, and the question was sustained by the House, and the question "Shall the bill pass on the second reading," was had and determined in the affirmative. Ayes, 51; noes, 23. So the bill as amended passed on a second reading, and on motion of Mr. Curran, was ordered engrossed for a third reading, and 150 copies ordered to be printed for the use of the House.

Page 586. House bill on second reading. Bill No. 286, to require guardians and other trustees to invest funds in their hands in State bonds, was read and passed. 756

Page 632. Bill No. 319, to establish a system of Internal Improvements in this State was read, and the Sections offered by the Committee were severally adopted.

757 Mr. Wisener offered to amend the said Bill by adding the following Section:

"SECTION . Be it enacted, That any bond authorized to be issued by the Governor under the provisions of this Act, or any other Act of this Legislature for works of Internal Improvement shall not be negotiated by any company, or agent or agents of any company, for whose benefit they may be issued, for other than their nominal value."

758 Mr. Sheid moved to lay such amendment on the table, which motion prevailed. Ayes, 40; noes, 31.

Page 640. Afternoon session, January 30, 1852.

The House resumed the unfinished business on adjournment of yesterday, being House Bill No. 219, to establish a system of Internal Improvements in this State, the question of the passage of the Bill on its third reading.

759 Mr. Stokes, of Wilson, offered the following amendment to said Bill, namely:

"Second Amendment. Insert after the word "place" in the 15th line of the first Section the words "in the United States."

Mr. Polk called for the previous question, and the question "Shall the main question now be put" was had and determined in the negative. Ayes, 24; noes, 43.

760 The House then adopted the amendment by Mr. Stokes of Wilson, and the amendment was ordered.

Mr. Campbell of Washington, called for the previous question and the question "shall the main question be now put," was had and determined in the affirmative. Ayes, 43; noes, 26. And the question, "shall the Bill pass on its third reading," was had and determined in the affirmative. Ayes, 46; noes, 22. The House took a recess. 761

Afternoon session, page 252.

Mr. Houston from the Committee on Internal Improvements reporting on Senate Bill No. 105, to aid in the completion of the East Tennessee & Georgia Railroad. The Committee reported the Bill back to the House for their action thereon.

Mr. Curran offered to amend said Bill by adding 762 sundry additional sections proposing to loan the bonds of the State to the amount of $100,000, under the same restrictions and provisions, for the construction of a bridge across the Tennessee river at such point as the Nashville & Memphis and Northwestern Railroads might cross the same.

Mr. Mabey moved to lay the motion on the table; which motion was rejected. Ayes 32, noes 27. On adoption of the amendment Mr. Miller demanded the 763 ayes and noes. The amendment was rejected. Ayes 34, noes 34.

By Mr. Harrison, their clerk:

Mr. Speaker: The Senate has passed on its 3rd and last reading in the Senate, House Bill No. 219 entitled "a Bill to establish a system of Internal Improvements in this State," after amending said Bill as per amendments herewith transmitted marked 1, 2, 3, 4, 5, 6, 7 and 8, and said Bill is hereby transmitted to the House 764 for concurrence in said amendments and for enrollment.

Page 806. House Bill No. 219, to establish a system of internal improvements in this State, and amendments marked 1, 2, 3, 4, 6, 6, 7 and 8. Mr. Houston moved concurrence in the Senate amendment marked No. 1, which motion prevailed. Mr. Bradison moved

765 concurrence in the Senate's amendment marked No. 2, which motion prevailed. Mr. Woodford offered to amend the third amendment of the Senate as follows: insert the words "agreed to" before the words "locate and extend," and at the end of said amendment the words "within ten years of the date of the passage of this act," which amendment was adopted, and the amendment as amended was concurred in by the House.

Mr. Wisener offered an amendment in lieu of the fourth amendment of the Senate, which amendment 766 was adopted, and the amendment as amended was concurred in by the House.

Mr. Atkins moved a non-concurrence in the fifth amendment to said bill, which motion was rejected, and the House concurred in the said amendment.

Mr. Bradison moved a concurrence in the sixth amendment to said bill, which motion prevailed.

The House then concurred in the eighth amendment 767 of the Senate to said bill, and said bill was ordered retransmitted to the Senate.

On motion the House adjourned.

Page 826. The Senate have concurred in the amendment of the House to the Senate amendment to House Bill No. 217, to establish a system of internal improvements in this State, marked 2 and 4. They have receded from their amendment marked No. 6, and ad- 768 hered to and insisted on amendment marked No. 7, and the House of Representatives are especially notified thereof, and the said bills are herewith transmitted. On motion the House proceeded to the consideration of Senate Message No. 124, transmitting House Bill No. 219. The House receded from its non-concurrence in the Senate's amendment No. 7. Ayes 47, noes 21. The ayes and noes being demanded by Mr. Jackson, those who voted in the affirmative are 47, negative 21.

Page 896. Mr. Hardman, on the committee on railroad bills reported that the committee on enrolled acts had examined the following enrolled acts and found them correctly enrolled, namely: An Act to establish a system of internal improvements in this State. 769

Page 947. Speech of the Speaker on the adjournment of the session: "If the public mind approves the system of improvements which you have created and projected in a broad and very liberal spirit, and the capital of the country cooperates with the bounty of the State in the construction of the main roads looking to the great channels and avenues of commerce and travel, your legislation will constitute an era in the annals of our prosperous and growing commonwealth, and your names will go down to generations unborn, honored and esteemed as benefactors of your race. 770

SENATE JOURNAL, Page 63.

AFTERNOON SESSION, OCTOBER 13, 1851. 771

Mr. Rogers introduced the following resolution, No. 16.

First, *Resolved*, That so much of the Governor's message as relates to internal improvements be referred to the Committee on Internal Improvements.

Page 124. Message of the Governor.

In such a government, and one which has grown to be of vast extent and diverse interest, the injunction of the Constitution of the State to encourage knowledge, learning and virtue, and a well regulated system of internal improvements as being essential to the preservation of Republican institutions, and calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens, cannot but be regarded as wise and patriotic. 772

1630

773 Page 144. Mr. Gillespie introduced the following resolution, No. 50, which was received and read:

Resolved, That so much of Gov. Truesdale's message as relates to the agency of Dr. J. G. M. Ramsey for the sale of the bonds of the State issued to the East Tennessee & Georgia Railroad by virtue of the Act passed January 30, 1850, be referred to the Committee on Internal Improvements, with instructions to said Committee to report whether the said Ramsey is entitled to
774 compensation from the State for such services, in discharge of the duties of said agency, and if so, how much.

Page 154. Resolution No. 50, referring that part of Governor Truesdale's message which relates to the agency of Dr. J. G. M. Ramsay to the Committee on Internal Improvements, was taken up and adopted.

Page 261. Mr. Gillespie presented the report of J.
775 G. M. Ramsay, Commissioner appointed under the Act of January 30, 1852, for the sale of the State bonds for the benefit of the East Tennessee & Georgia Railroad. On motion of Mr. Gillespie ordered that 50 copies of said report be printed for the use of the Senate. The Senate adjourned till to-morrow morning.

Afternoon Session, Dec. 4, 1851.

Mr. Gillespie moved that the report of the agent of
776 the State of Tennessee for the sale of the State bonds for the use of the East Tennessee and Georgia Railroad be forthwith transmitted to the House of Representatives.

Page 355. Mr. Diedrich, from the Committee on Internal Improvements, reported and recommended the passage of Senate Bill No. 105, entitled A Bill to aid in the completion of the East Tennessee and Georgia Railroad.

On motion the Senate adjourned. 777

Page 371. The following House bills were taken up and passed their first reading in the Senate, namely: House Bill No. 207 to authorize the Governor to issue bonds of the State of Tennessee to aid the East Tennessee & Virginia Railroad Company to build bridges on their road. On motion of Mr. Carriger the rule was suspended, and said last named bill was referred to the Committee on internal improvements.

778

SATURDAY, JANUARY 3, 1852.

Page 379. Mr. Diedrich, from the Committee on Internal Improvements, reported and recommended the passage of House Bill No. 107, to issue bonds of the State to the East Tennessee & Virginia Railroad to build bridges on their road, with tne amendment of an additional section, which was adopted. On motion of Mr. Carter the bill and report was laid on the table.

Page 381. Message from the House of Representatives. 779

Mr. Tedford returns Senate Bill No. 105, entitled A Bill to aid in the completion of the East Tennessee and Georgia Railroad, with sundry amendments.

Page 384. January 5, 1852.

The Senate took up Senate Bill No. 105, entitled A Bill for the completion of the East Tennessee and Georgia Railroad. Mr. Doyle moved to lay the bill and the amendments offered by Mr. Tedford on the table, which motion was lost. On motion of Mr. Paret the bill and amendments referred to Committee on Internal Improvements. 780

Page 386. January 5, 1852.

The Senate took up House Bill No. 107, entitled A Bill to authorize the Governor of the State to issue bonds of

781 the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their roads, and the bill passed its second reading by the following vote. Ayes, 16; noes, 9.

Page 388. January 6, 1852.

Mr. Diedrich from the Committee on Internal Improvements reported that they had under consideration Senate Bill No. 105, entitled to aid in the completion of
782 the East Tennessee and Georgia Railroad, and the amendments
referred to them, and recommended the rejection of the amendments and the passage of the bill. The report of the Committee recommending the rejection of said amendments was concurred in, amendments rejected. Mr. Tedford offered an amendment to strike out the clause in the bill authorizing the Governor of the State to issue bonds of the State to the Company. Pending the question of the adoption of Mr. Tedford's motion the Senate adjourned.

783 Page 391. Amendments to East Tennessee and Georgia Bill as to location.

Page 404. On motion of Mr. McKenson took up Senate Bill No. 105, entitled A Bill to aid in the completion of the East Tennessee and Georgia Railroad. The amendment offered by Mr. Tedford rejected. Ayes, 17; noes, 5.

Page 405. House Bill No. 107, entitled A Bill to
784 authorize the Governor to issue bonds of the State to aid the East Tennessee & Virginia Railroad Company to build bridges on their roads, passed its third reading in the Senate; ayes, 16; noes, 6. Said bill ordered to be forthwith transmitted to the House of Representatives for their concurrence in the Senate's amendment.

Page 406. January 5, 1852. Mr. Diedrich introduced Bill No. 182, entitled A Bill to establish a system

of internal improvements, which was read the first time 785
and passed and on motion of Mr. Rogers the rule was suspended and said bill was referred to the Committee on Internal Improvements.

Page 416. The Senate Bill No. 105, to aid in the completion of the East Tennessee and Georgia Railroad passed by the following vote: Ayes, 16; noes, 4.

Ordered that the bill be engrossed and transmitted to the House.

786

Page 440, January 16th, 1852.

Mr. Diedrich, from the Committee on Internal Improvements, reported Senate Bill No. 182, entitled, "A Bill to establish a system of Internal Improvements in this State," and recommended the adoption of sundry amendments on the passage of the bill.

The first amendment proposed by the Committee, viz., in the seventh line, section 1, to strike out the word "ten" and insert the word "twenty," and in the fourth section to strike out the words "whenever it appears," and insert the word "twenty," was taken up. 787

Mr. Gillespie moved to amend the said amendment by striking out the word "twenty" and inserting "forty," and the amendment as amended was adopted.

The Senate then took up and adopted the second amendment proposed, viz., in section ten, in the third and fourth lines, to strike out the words "Henderson and Nashville Railroad Company." 788

The third amendment offered by the Committee, in section ten, on the fourth line, after the words "Southwestern Railroad Company," insert the words "McMinnville and Manchester Railroad Company," was taken up and adopted.

On motion of Mr. Stark the bill and report was laid on the table, and made the special order of the day for Wednesday next.

789 Page 441. Message from the House of Representatives.

House of Representatives has concurred in the Senate's amendments to House Bills of the following titles: House Bill No. 107, to authorize the Governor of the State to issue bonds of the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their road.

790 Page 466, January 21st, 1852. Message from the House of Representatives.

The Speaker of the House has signed the following enrolled act: An act to authorize the Governor of the State to issue bonds of the State of Tennessee to aid the East Tennessee and Virginia Railroad Company to aid in construction of bridges.

Page 473, January 22, 1852.

791 On motion of Mr. Diedrich, Senate Bill No. 182, entitled, "A Bill to establish a system of Internal Improvements," was taken up. The fourth amendment, proposed by the Committee, namely, in section 10, fourteenth line, to strike out the words "to the city of Clarksville," and insert the words "the Nashville and Great Northwestern Railroad," was adopted.

On motion of Mr. Pavet, the bill and the amendments was referred to the Committee on Internal Improvements.

792 On motion of Mr. Pavet, a vote to re-commit said bill and amendments was reconsidered.

Mr. Bradbury offered a motion of three additional sections, and on motion of Mr. Pavet, the bill and amendments were referred to the Committee on Internal Improvements.

Page 492, January 26th, 1852.

Mr. Diedrich, from the Committee on Internal Im- 793
provements; Senate Bill 182, entitled, "A Bill to establish a system of Internal Improvements and the amendments thereto," reported that they had the bill and amendments referred to the Committee under consideration, and had instructed him to report said bill, and recommend the rejection of the amendment proposed by Mr. Bradbury, the adoption of the amendments which were pending when the bill was referred, the adoption of an amendment of two additional sec-
tions, and an amendment to the tenth section now 794
proposed by the Committee, and the passage of the bill.

On motion of Mr. Whitfield, Mr Bradbury's motion was laid on the table.

Mr. Pavet offered the following motion to the said Bill. "Provided further that the act incorporating the said Central Trunk Railroad now before the Legislature shall pass the General Assembly and shall take the route between Nashville and the point designated
in the said Bill on the Tennessee River; then the said 795
Company shall be and they are hereby authorized to receive the said aid in the Bill contemplated, and when said stock shall be taken, and that fact is certified to the Governor, he shall issue bonds aforesaid for the whole distance of said road from Nashville to the Tennessee River to such company.

On motion of Mr. Whitfield the Bill and Amendments were recommitted to the committee on Internal
Improvements. 796

Page 548, February 4, 1852.

Message from the House of Representatives.—The House has passed on their third reading House Bill No. 219 to establish a system of Internal Improvements in this State.

797 Page 558, February 5, 1852.

The Senate took up and passed on its first reading, under the suspension of the rules, House Bill No. 219, entitled a Bill to establish a system of Internal Improvements in this State. On motion of Mr. Gillespie the rule was suspended, and the Bill was referred to the Committee on Internal Improvements.

Page 577, February 7, 1852.

798 The House of Representatives announced by messenger that they had passed on third reading Senate Bill No. 105 to aid in the completion of the East Tennessee and Georgia Railroad.

Mr. Diedrich from the Committee on Internal
Improvements reported and recommended the pas-
sage of House Bill No. 219 to establish a system
of Internal Improvements in this State with the follow-
799 ing amendments.

First: To amend the first section by inserting after
the word "bridge" in the eleventh line "shall have
ready to." Second: In the 16th line, same section,
after the word "whatever" insert the words "other
than those created in favor of the State by the Acts of
1851-2." Third: In the 15th section, 7th line, from
the top of page 12 strike out the words "the river
passage," and at the end of said section add the follow-
800 ing: "Provided, further, that the bonds shall not
be issued to the Louisville and Nashville Railroad or
the Nashville and Cincinnati Railroad as provided in
this Act, unless one of said companies shall locate and
extend its road across the Cumberland river at or con-
venient to Nashville or south of Nashville." Fourth:
Add to the 19th section the following: "Provided that
the Nashville Railroad Company and the Tennessee
and Alabama Railroad Company shall construct their

railroads by way of Franklin, Spring Hill and Columbia to Mount Pleasant; which State aid shall be granted by the same terms and conditions as are prescribed in this Act, in extending the aid of the State to build railroads hereinbefore provided for; and if the aid of the State is given to the Tennessee and Alabama Railroad Company from Nashville to the Alabama State line in the direction of Florence, as provided in this Act, then the Nashville and Southern Railroad Company shall have the right of connecting their road with the said Tennessee and Alabama Railroad Company at such point as they may designate. And the aid of the State is hereby extended to said road as provided for any other road embraced in this Act where it intersects the said Tennessee and Alabama Railroad to its terminus at the Mississippi State line, or at a point on the Mobile and Ohio Railroad, the Memphis and Charleston Railroad, or the New Orleans Railroad. But if the aid of the State shall be given to the Nashville and Southern Railroad under the provisions of this Act, then the Tennessee and Alabama Railroad shall have the right to connect with the said Nashville and Southern Railroad at such point as they may designate, and the aid of the State may be extended to said Railroad as provided for other Railroads in this Act, from the point of intersection with the said Nashville and Southern Railroad to the line of the State of Alabama in the direction of Florence." All of said amendments were adopted.

Mr. Rogers offered an amendment in the Senate to insert in the 17th line of the 10th section after the words "Winchester and Alabama Railroad Company," the words "Tennessee Central Railroad from its terminus on the Mississippi river to the Tennessee river;" which amendment was rejected.

Mr. Tedford offered an amendment of an additional section extending the benefits and provisions of the

805 Act to the Knoxville and North Carolina Railroad to the Little Tennessee river. Said amendment was rejected.

Mr. Gillespie offered an amendment to insert after the words, "Winchester and Alabama Railroad Company," in the 10th section, the words, "Piekville and Jasper Railroad Company." Said amendment was rejected. Noes, 16; ayes, 8.

806 Mr. Pavet offered an amendment to strike out the words "eight thousand dollars per mile," and insert the words, "six thousand dollars," which amendment was rejected by the following vote: ayes, 9; noes, 14.

Mr. Dunlap of Shelby moved to insert after the words "or section thereof" in the 5th line of the 15th section the words "provided that, in computing the ton of iron, it shall be rated at 2,000 pounds." Said amendment was adopted.

807 Mr. Dunlap offered an amendment that the following aditional section; namely, section That no road embraced in this Bill shall be entitled to the State aid unless it shall within three years complete at least one section of thirty miles, the whole length of the road if less than thirty miles long.

Mr. Rogers offered an amendment to said amendment to strike out the word "three" and insert "34," which amendment was adopted, and the motion as amended was adopted. 808

Mr. Anderson offered an amendment of an additional section, providing that the bonds which shall be issued under the provision of said Bill or any other Bill, passed by the present General Assembly, shall not be sold for less than their par value.

Mr. Diedrich moved to lay said amendment on the table; which amendment prevailed: ayes, 15; noes, 6.

Mr. Pavet offered an amendment of two additional 809
sections.

Mr. Gillespie moved the previous question; which motion was sustained by the Senate. The report of the Committee was concurred in, and the Bill passed on its second reading in the Senate.

Page 595. February 11, 1852.

House Bill 219 entitled a Bill to establish a system
of Internal Improvement in this State was taken up. 810

Mr. Rogers moved to lay said Bill on the table, which motion was lost.

Mr. Pavet offered an amendment as follows: Section
16. Be it further enacted, that it shall be the duty of
the President and Directors of any of the Companies
who may apply for the benefit of the provisions of this
Act to faithfully and justly apply and expend all moneys
arising from the sale of bonds issued under the pro- 811
visions of this Act in the purchase of railroad iron,
chairs, spikes and equipments for such roads, and if it
shall appear at any time that such moneys, or proceeds
thereof, arising from said bonds by wilful acts of the
Directors, or any officer or agent, of the Company,
has not been so expended; if the proceeds of the same
has not been applied to the road contemplated to be
built, the stockholders of said Company and their
assigns shall be liable in their individual and private
capacities for the principal and interest arising on said 812
bonds so issued. And it shall be the duty of the
Attorney General of the State, or any other person who
may be appointed by authority of the State, whenever
he shall be fully notified by the Governor or any of the
persons appointed by the provisions of this Act, or who
may hereafter be appointed, to take care of the interest
of the State, that the whole of the proceeds of the bonds
so issued have not been applied to the purchase of rail-

813 road iron, rails, spikes, and equipments for such road in pursuance of this Act and the charter, under which such companies may be formed, and shall not, in each and every substantial thing, comply with the requisites of this Act, said Attorney General, or such other officers so appointed, shall from time to time commence suits in the name of the State against said companies, either in their corporate or individual capacity, for the interest arising on said bonds, for which they shall be liable and shall pay according to the requisition of such bond, 814 and each and every judgment so obtained shall be a lien upon the individual and private property of said stockholders and their assigns until the same is fully paid.

Afternoon Session.

Mr. Speaker Hill, Mr. Davis of Marshal in the Chair, offered the following as an amendment in lieu of that offered by Mr. Pavet; namely: "That each of said companies is hereby authorized and required to appoint an Agent or Agents, to whom the bonds shall be de- 815 livered, and whose duty it shall be to control said bonds and see that they are exclusively applied to the payment of railroad iron and equipments as provided in this Act and for no other purposes whatsoever. And said Agent, before he receives the bonds of the State shall give bond and security to be approved by the Governor and payable to the State of Tennessee for the application of the bonds or the proceeds thereof to the purposes aforesaid; which amendment was adopted by the following vote: ayes, 15; noes, 9. 816

The amendment as amended was then adopted.

Mr. McKean offered an amendment requiring the list of stockholders and the amount subscribed by each to be filed in the office of the Secretary of the State.

Mr. Speaker Hill offered an amendment providing that in the event the Memphis and Nashville Railroad

Company, or the Nashville and Northwestern Railroad Company, fail to complete thirty miles of said road, the Central Railroad shall be entitled to the provisions of this bill, which amedment was adopted; ayes, 20; noes, 3. 817

Mr. Fogg offered an amendment of an additional section, as follows:

"Be it enacted, that if any of said companies shall fail to procure the subscriptions for the capital stock sufficient to grade, bridge and prepare for the iron rails 818 the whole extent of the main trunk line of railroad to be constructed by such company, as provided for in the first section of this act, and fail to make the same known to the Governor as therein described, before the first Monday in October, 1853, then the provisions of this act shall not extend to or embrace such company, and no bond of the State shall be issued to any such company or companies.

Mr. Speaker Hill moved to lay said amendment on 819 the table, which motion prevailed; ayes, 15; noes, 9.

Mr. Gillespie called for the previous question, and the question being taken, "Shall the question be now put," was decided in the negative. Ayes, 11; noes, 13.

Mr. Anderson moved to reconsider the vote rejecting the amendment offered by Mr. Tedford, which motion prevailed. Said amendment was again rejected by the following vote: Ayes, 11; noes, 13. And the Bill passed its third and last reading in the 820 Senate by the following vote: Ayes, 15; noes, 9.

Mr. Dunlap, of Henry, stated that he voted for the Internal Improvement Bill in obedience to the will of his constituents.

On motion of Mr. Davis, the rule was suspended, and said Bill and all other bills passed by the Senate

821 on their third reading up to this time, and which have not been transmitted to the House of Representatives were ordered to be forthwith transmitted.

Senate adjourned until to-morrow.

Page 601. February 12, 1852.

Mr. Rogers, from the Committee on Enrolled Bills, reported as correctly engrossed an Act to aid in the completion of the East Tennessee and Georgia Railroad. 822

Message from the House of Representatives. The House has passed on their third reading House Bills of the following titles: An Act to aid in the completion of the East Tennessee and Georgia Railroad.

Page 613. February 13, 1852.

Message from the House of Representatives. The House has passed on their third reading Senate Bill No. 133, to authorize the renewal of certain State bonds. 823

Page 624. February 16, 1852.

The Senate took up the message of the House transmitting House Bill No. 133, to authorize the renewal of certain State bonds, all of which had been amended by the House of Representatives. The first amendment to Senate Bill No. 133, marked section 6, was concurred in.

824 Mr. Diedrich offered an amendment to the second amendment of the House, marked Section 7th, which was adopted, and the amendment as amended was concurred in by the Senate.

Page 658. February 19, 1852.

The Senate took up the message from the House of Representatives transmitting House Bill No, 219, and the amendments.

Mr. Stark offered another amendment to said amend- 825
ment providing that the bonds of the State to the amount of $100,000 shall be issued to the said company to aid in the construction of a bridge across the Cumberland River under the same provisions and subject to the same restrictions as are embraced in the act to aid in the building of a bridge across the Tennessee River at Blair's Ferry, which amendment was rejected.

Mr. Diedrich moved that the Senate recede from 6th
amendment to said Bill ; which motion prevailed. 826

Mr. Diedrich moved that the Senate recede from 7th amendment to said Bill, which motion was lost. Ayes, 5 ; noes, 18.

Ordered that the House of Representative be informed of the action of the Senate on said bills and amendments.

Page 666. Message from the House. The House has
concurred in amendments of the Senate to House Bill 827
No. 219 to establish a system of Internal Improvements in this State.

FEBRUARY 24, 1852.

Mr. Rogers from the Committee on Engrossed Bills reported as correctly engrossed an Act to authorize the renewal of certain bonds of the State of Tennessee.

Page 696. Message from the House. 828

The House has rejected and indefinitely postponed Senate Bills of the following titles: An Act to authorize the renewal of certain bonds of the State of Tennessee.

Page 723. February 25.

Mr. Pavet introduced Resolution No. 156, which was received and read, namely: "Resolved: That in the

829 opinion of this General Assembly the Bank of Tennessee should be put into immediate liquidation."

Page 754. February 27, 1852.

Resolved, That R. J. Meigs and William F. Cooper be and they are hereby appointed to revise the General Statutes of the State of Tennessee and report the same to the next General Assembly; and that they suggest any amendments or alterations which they may deem advisable.

830

P. 785. March 1, 1852, Valedictory of the Speaker.

The period has now arrived for the termination of our labors here. They have been long and arduous and not without important results. Indeed, this session of the General Assembly will constitute an era in the history of Tennessee and her future historian will point to our legislation as the cause of many important results—The Internal Improvement Companies, the free banking system, the homestead exemption law—The
831 first always the most difficult step which has been taken in the work of internal improvement, to say nothing of the many laws second in importance only to these are monuments of legislation intended by this General Assembly to commemorate its devotion to the prosperity and glory of the State, and so may they prove.

---

832 GOVERNOR'S MESSAGE.

Tennessee Senate Journal, 1853-4, p. 37.

The public debt, exclusive of current charges, and the evidence of which consists of bonds issued by the authority of the State and bonds endorsed by the State of certain companies, amounts to $5,746,856.66. These bonds were issued bearing various rates of interest; that is to say, 5¼ per cent. Internal Improvement

bonds amounting to $213,416.66; 5 per cent. bonds issued 833
on same account, $1,838,440; 6 per cent. bonds issued
to the Bank of Tennessee, $1,000,000; 5 per cent.
bonds issued to the Union Bank, $250,000, being $125,-
000 less than the statement, this last amount having
been redeemed by payment since the last session of the
Legislature; 6 per cent. bonds issued for the building
of the capitol, $500,000; 6 per cent. issued under the
Act of 1849-50, and under the Acts of the last Legisla-
ture and loaned to various rail and plank road com-
panies, $1,095,000; 6 per cent. bonds of the Nashville 834
and Chattanooga Railroad Company endorsed by
the State, $550,000. I refer you to the report of
the comptroller for information as to the periods at
which the above bonds respectively become due. It
is proper to state, that of the above amount of bonds
there have been issued since the last session of the
Legislature to the Memphis and Charleston Railroad
Company, under the Act of February 11th, 1852, four
hundred thousand dollars; to the railroad
company from Dyersburg to the Mississippi river, 835
twenty-five thousand dollars; to the East Tennessee
and Virginia Railroad Company, under the Act of 15th
January, 1852, to aid in the construction of bridges on
the road, three hundred thousand dollars; to the East
Tennessee and Georgia Railroad Company, under the
Acts of 4th and 26th of February, 1852, to aid in the com-
pletion of the road, twenty thousand dollars; for build-
ing the State Capitol, $250,000, and that
bonds of the Nashville and Chattanooga Railroad Com-
pany, within the same period, have been endorsed under 836
the Act of 1847 and 1848 to the amount of $250,000, an
equal amount having been endorsed by my predeces-
sor under the same act. Bonds of the same company
have been endorsed under the act of the last session of
the Legislature, to the amount of $350,000. It is proper
also to observe that, although for the payment of the
interest on, and for the ultimate redemption of a con-
siderable portion of the bonds as above stated, as con-

837 stituting the public debt, the State is only contingently liable, yet, that our public credit may in no possible event sustain a shock, it will be the part of wisdom to make ample provision against such a result.

(Signed)

WILLIAM B. CAMPBELL,
October 8th, 1853.

Comptroller's Report.

838

Nashville, October, 1853.

To the General Assembly of the State of Tennessee:

Since the report from this office two years ago, bonds of the State have been issued, on account of the State subscription for the stock in the East Tennessee & Georgia Railroad Company, amounting to $25,000.

Page 50. Total liabilities of the State, $3,801,856.66.

839 Page 71. Bonds loaned by the State to East Tennessee & Georgia Railroad Company, under the Act of 1849-50, $350,000; to the same company, under the Act of 1851-2, $20,000; to the Memphis & Charleston Railroad Company, $400,000; to the Mississippi & Diesburg Road, $25,000; to the East Tennessee & Virginia Railroad, $300,000. In addition to the above, the Governor has endorsed bonds of the Nashville & Chattanooga Railroad Company, amounting to $850,000.

WILLIAM R. CROZIER,
Comptroller.

840

The Report of the Comptroller.

Assets and liabilities of the State, *January* 15, 1854.

[Here follows amounts.]

Page 244. In addition to the foregoing, the State has loaned and endorsed bonds as follows:

[Same as above list.]

About eighty-two miles of the East Tennessee and 841
Georgia Railroad are completed, and the State has a
lien on road, cars, depots, &c., to secure the payment
of the interest on the bonds herewith matured. This
distance of the road cost the company near $2,000,000.
A recent report of the president of the road says that
the agricultural projects of that section of the State,
and the rich minerals recently discovered have
enabled the company to realize handsome profits
in transporting those articles, and it is hardly possible
that the State will ever have any portion of the interest 842
or principal to pay. The Nashville and Chattanooga
Railroad Company have about 120 miles completed,
and at a cost of two and a half million dollars. The
State has a lien upon 120 miles of this road, and is
equally secure as in the case of the East Tennessee
and Georgia Railroad. The Memphis and Charleston
Railroad have completed 53 miles at a cost of about
$800,000. The State has a lien as in the other cases
above named. This road penetrates the richest agricul-
tural portions of the State. The branch from Moscow 843
to Somerville, distance 13 miles, has been very profit-
able, and would, I have no doubt, be worth the whole
amount of bonds issued to the company for the entire
road completed.

The East Tennessee and Virginia Road has not com-
pleted any section of the road. The last report of the
president, secretary and treasurer shows that the work
is rapidly progressing. The company have promptly paid
interest on the bonds loaned by the State. The same
lien on the road, cars, &c., exists to secure the State as 844
in the other cases above named. The amount of Stock
taken by individuals on the line of the road, and the
importance of this link in the great chain of railway,
renders it absolutely certain that the State is safe in the
amount of liability incurred to aid the Company.

Under the act authorizing the issue of bonds to the
Mississippi & Dyersburg Railroad Company,

845 the Committee have surveyed that district, appointed a Committee to assess the value of real estate to the amount of $40,000, on which a lien or mortgage was taken. The State has also a lien on the road, tolls and fixtures, as security for the payment of the bonds received.

"These companies have at all times promptly met the interest when demanded. Owing to the holders of the coupons on these bonds presenting them in some instances to the agent of the State, in New York, in
846 place of the agent of the railroad company, a large amount has been paid by the State agent in the redemption of the coupons for the semi-annual interest.

After a careful examination of the interest account paid by the Bank, I discovered that the agent had paid interest on bonds which were issued as a loan to internal improvement companies. On notifying the company of the fact, the interest was promptly refunded, and the amount is shown in the Table of Receipts.

847 *The Senate Journal*, 1853-4.

Page 68. Mr. F. Faraquhar moved to re-commit the bills and amendments to the Committee on Internal Improvements with the following instructions, whether the Act entitled an Act to authorize and regulate County Subscriptions for railroad stock, passed January 28, 1852, should be amended or repealed.

(See page 70.)

848 Page 82. Mr. Reed, from the Committee on Enrolled Bills, reported as correctly engrossed Bill No. 5, to authorize certain counties to take stock in railroads and issue bonds for the same.

Page 93. Mr. Carriger introduced Bill No. 26, to revive and make in full force so much of the Act passed January 19th, 1838, as relates to the subscription of State bonds to the Charleston & Cincinnati Railroad

Company, and to apply the same to the Cincinnati, 849
Cumberland Gap & Charleston Railroad Company, according to the provisions of an Act passed February 11, 1852, entitled, An Act to establish a system of internal improvement in this State.

Page. 113. Mr. Perkins introduced Bill No. 36, to amend the Internal Improvement law, which was read, the first time and passed, and referred to the Committee on Internal Improvements, October 28, 1853.

October 29, 1853. 850

Mr. Nelson, from the same committee, to which was referred Bill No. 35, to amend the Internal Improvement law, made a report recommending the passage of the bill. The report was concurred in, and the bill passed on the second reading.

Mr. Dunlap, of Henry, introduced Bill No. 37, to amend an Act entitled an Act to establish a system of Internal Improvements in the State, which was read the
first time and passed, and was referred to the Committee 851
on Internal Improvements.

Page 128. Senate Bill No. 35, to amend the Internal Improvement law, was read the third time and passed. Ayes, 17; noes, 6. Ordered that the said bills be engrossed.

Page 146. Mr. Perkins moved to reconsider the vote passing Bill No. 35, to amend the Internal Improve-
ment law, which motion prevailed. Mr. Regan offered 852
an amendment consisting of an additional Section, providing that the East Tennessee and Georgia Railroad receive the said aid provided for, on the completion of every ten miles of said railroad, which amendment was adopted.

Thursday, Nov. 3, 1853.

Page 146. The Senate resumed the consideration of

853 Bill No. 35, meaning the internal improvement law on its third reading. Leave was granted Mr. Bell to withdraw said bill for amendments.

Page 156. Nov.7, 1853. Mr. Nelson, from the Committee on Internal Improvements, to which was referred the bill No. 37 to amend an act entitled An Act to establish a system of internal improvements in this State recommended the passage of the bill. The report was concurred in, and the bill passed second reading.

854 Page 171. November 10, 1853. Mr. Nelson, from the Committee on Internal Improvements, to which was referred Bill No. 70, to amend an act entitled An Act to establish a system of internal improvements in this State, reported a bill in lieu of the original bill. The report was concurred in, and the bill in lieu was adopted.

Mr. Knabe offered the following amendment:

855 SECTION Be it further enacted, That in order more effectually to indemnify the State, the stockholders shall be individually liable to the State to the amount of stock owned in said road or roads.

On motion of Mr. Carriger, said amendment was laid on the table.

On motion the bill was laid on the table and ordered to be printed.

856 Page 181. Mr. Reed, from the Committee on Enrolled Acts, reported as correctly engrossed Senate Bill No. 35 to amend the internal improvement law.

Page 185. November 18, 1853. The Senate resumed the consideration of Bill No. 70, to amend an act to establish a system of internal improvements in this State, the question being on the amendment offered yesterday by Mr. Knabe.

Page 186. Afternoon session. Mr. Reed introduced the following resolution, No. 53 : 857

Resolved, That the Comptroller of the Treasury be requested to furnish the Senate, at as early a day as may be practicable, information upon the following points :

First, the number of railroads and other roads, and what roads the aid of the State has been promised, and to which it is now proposed to extend said aid ; also the number of miles where it can be accurately ascertained, and where it cannot, about the number of miles 858 in Tennessee of said roads to which the aid of the State has been or will be extended, if said roads shall be built.

Second, the number of roads, and what roads, and their extent, or about their extent in the State of Tennessee, which have applied to the present Legislature for the aid of the State to assist in the building or construction of the same, and what would be the aggregate liability of the State if such aid should be so promised. 859

Third, the character of the country, its wealth, and the kind and extent of commerce of these roads to which the aid of the State has been promised, and those for which aid is now applied for, or shall pass.

Page 191. Bill No. 70, to amend an act to establish a system of internal improvements in this State, was amended on motion by Mr. Holt, by striking out of the first section the words "Mississippi, Bolivar and Jackson Railroad Company," and inserting "Missis- 860 sippi Central and Tennessee Railroad Company," made the special order for Tuesday next.

Bill No. 37, to amend an act entitled an act to establish a system of internal improvements in this State, was made the special order for Monday next.

Page 205. Tuesday, November 22, 1853.

861 The Senate took up the special order of the day, Bill No. 70, to amend an act to establish a system of internal improvements in this State. Mr. Perkins moved to amend the bill by inserting the following proviso: "Provided, that no bond to be issued under the provisions of this act shall be sold under its par value."

Mr. Carriger moved to lay the amendment on the table, which motion was rejected. The amendment was then adopted. Ayes, 13; noes, 9. 862

Mr. Frazer moved to amend the bill by inserting after the word "embraced," in the first section, the words "the Nashville and Cincinnati Railroad Company," which motion prevailed.

Mr. Knabe moved to amend by inserting in the sixth line, after the words "company," the words "Atlantic, Tennessee and Ohio Railroad Company," which amendment was rejected.

863 Mr. Nixon moved to amend by striking out the second section of the bill.

Mr. Reagan moved to amend by inserting in the third line, first section, between the words "the" and "Cincinnati," the words "Knoxville and Charleston."

Page 212. Mr. Bowles offered the following amendment: "Provided further that this shall apply to the
864 bonds issued for the roads included in this act, and
shall not apply to the bonds for roads included in the act which this is intended to amend.

Which amendment was adopted.

AFTERNOON SESSION.

Mr. Moore offered the following amendment to bill No. 70, section 6. "Be it further enacted that before

the Governor of the State shall issue any bonds to the 865
Nashville & Charleston Railroad Company, or any company
in which it may be merged, it shall be made to
appear to him in the manner pointed out to him in the
act passed 11th of February, 1852, entitled "An Act
to establish a system of Internal Improvements
in this State; that all the provisions and requirements
of the first section of the latter named Act
have been fully complied with by said Railroad Company,
or any company in which it may be merged and
upon issuance of the bonds to said Company as herein 866
provided, all the provisions of said Act of 11th of February,
1852, securing a lien to the State of Tennessee, and
all other provisions thereof, shall apply to and be binding
upon said Knoxville & Charleston Railroad Company,
or to any company in which it may be merged, so
as to place all the Railroad Companies aided by the
State upon an equality.

Mr. Bowles moved to lay said amendment on the
table. Rejected. Amendment was then adopted. 867

Mr. Moore also offered the following amendment:
"Sec. 7. Be it enacted, that it shall the duty of the
Governor to appoint a Commissioner who shall act
under him, and whose duty it shall be, when either of
said Companies apply for the issue of bonds, herein
provided for, to proceed forthwith and ascertain whether
the Company so applying for the bonds of the State,
has in all respects complied with the provisions of said
Act of 11th February, 1852. And the Governor shall not 868
issue the bonds of the State to said Company until
said Commissioner has made such examination, and
reported, under his oath, to the Governor that the
Company has complied with the provisions of the Act
of 11th of February, 1852.

Mr. Moore offered the following amendment:

Sec. 8. Be it further enacted, That nothing in this
Act shall be so construed as to make the State of Ten-

869 nessee a stock-holder in any of said railroad companies upon issuance of the bonds of the State to any or either of said companies by the Governor of the State. All provisions of the Act of 11th of February, 1852, entitled, "An Act to establish a system of Internal Improvements in this State," securing a lien in favor of the State for the payment of the bonds so issued and the interest thereon, shall apply to and be binding upon all railroad companies specified in the foregoing sections of this
870 bill.

Which amendment was adopted.

Mr. Bowles offered the following amendment to the 8th section of the bill, "Provided that the sixth, seventh and eighth sections shall not apply to the Knoxville and Charleston Railroad Company, the bonds of the State to be issued to that company under the provisions of the second and third sections of this Act, and the Company may accept the bonds under
871 those sections according to the provisions of the Act which this is intended to amend."

Which amendment is adopted. Ayes, 14; Noes, 9.

Page 220. On motion, further proceedings were dispensed with, and the question, shall the bill pass on its third reading? was taken up, and determined in the affirmative.

Ayes, 13; Noes, 9.

Ordered, That the said bill be engrossed, and forth-
872 with transmitted to the House of Representatives.

The Senate took up the bill No. 37, to amend an Act entitled an Act to establish a system of Internal Improvements in this State, the question being on the adoption of the bill heretofore offered by Mr. Robertson.

The bill *in lieu* was then adopted and the bill as amended passed on its third reading. Ayes, 16; noes,

16. Ordered that said bill be engrossed and forthwith transmitted to the House of Representatives. 873

Page 223. Mr. Reed from the Committee of Engrossed Bills reported as correctly engrossed Bill No. 37, to amend an Act entitled an Act to establish a system of Internal Improvements in this State, and for other purposes.

Mr. Reed presented a report of the Internal Improvement Commissioners. Mr. Dunlap, of Henry, moved 874 that five hundred copies thereof be printed for the use of the Senate.

Dec. 19, 1853.

Page 292. Senate Bill No. 37, to amend an Act entitled, An Act to establish a system of internal improvements in this State and for other purposes, is adopted, and the same is herewith transmitted to the Senate for enrollment.

875

Page 355. Message from the House of Representatives.

The Speaker of the House has signed an enrolled Act to amend an Act entitled, An Act to establish a system of internal improvements in this State and for other purposes, and the same has been deposited with the Secretary of State.

Page 459, The Senate took up the special order, it being a bill from the House *in lieu* of Senate Bill No. 70, to establish a system of internal improvements in this State. 876

Mr. Dunlap offered an amendment consisting of an additional section extending the aid of the State to the Mississippi & Tennessee Railroad Company, which was adopted.

877 Mr. Benton moved to amend the bill by inserting after the seventh line of the first section, the words "Central Tennessee Railroad from the Mississippi to the Tennessee river." Which amendment was rejected.

FEBRUARY 1, 1854.

Page 463. The Senate resumed consideration of the bill *in lieu* of Senate bill No. 70.

Page 465. Mr. Dunlap ofShelby, called for the previous question, it being on the concurrence in the 878
amendments by the House as amended, which motion prevailed. Ayes, 18; noes, 6. So the previous question being on the adoption of House Bill as amended *in lieu* of Senate bill, was ordered to be now put, and it was determined in the affirmative. Ayes, 15; noes, 10.

On motion of Mr. Carriger it was ordered that the said bill be immediately transmitted to the House of Representatives, and the concurrence in the amendments requested. 879

Page 514. Message from the House. House of Representatives agree to Senate's amendments adding sections 10, 11 and 12 to the bill No. 70, to amend an Act, entitled An Act to establish a system of Internal Improvements in this State, and disagree to Senate's amendments adding sections 13 and 14, relative to the Dechard road in which the concurrence of the Senate is requested. The question recurred on motion by Mr. Carriger to recede, was determined in the affirmative.
880 Ayes, 18; Noes, 7.

Mr. Robertson moved to reconsider said vote. Motion rejected. Ordered that said bill be enrolled.

HOUSE JOURNAL, 1853-4.

Page 165. Mr. Temple introduced bill No. 81, to amend an Act to establish a system of Internal Improvements. Read first time and passed, and referred to Committee on Internal improvements.

Page 576. To amend an Act passed 11th February, 1852, entitled an Act to establish a system of internal improvements in this State. The Committee asks to be discharged from the further consideration of the same. 881

655. House Bill No. 115, An Act to amend an Act to establish a system of Internal Improvements in this State, was taken up and read, and on motion laid on the table.

House Bill No. 125, entitled an Act to amend an Act to establish a system of Internal improvements in this State, was taken up, and read, and on motion laid on the table. 882

Page 293. House Bill laid on the table.

Mr. Temple has leave to withdraw Bill No. 81.

Page 217. Mr. Wood, of Harland, introduced Bill 115, to amend an Act to establish a system of Internal Improvements in this State. Read first time and passed, and referred to Committee on Internal Improvements. 883

Page 226. Mr. Lamb introduced Bill 125, to amend an Act to establish a system of Internal Improvements in this State, and for other purposes. Read first time and passed, and referred to Committee on Internal Improvements.

Page 226. Mr. Lucas introduced Bill 161, to amend an Act passed February 11, 1852, entitled an Act to establish a system of Internal Improvements in this State. Read first time and passed. 884

Page 494. House Bill No. 161. Mr. Lucas had leave to withdraw the same for amendment.

Page 434. Mr. Bailey introduced bill 298 to amend an Act to establish a system of Internal Improvements. Read first time and passed.

885 Page 503. Mr. Bailey moved to take up bill 298 and moved its reference to Committee on Internal Improvements, which motion prevailed.

Page 550. Mr. Cook moved to take up House Bill No. 298, and moved to make it the special order of business for Friday 18th inst. Which motion prevailed.

Page 576. On bill 298 to amend an Act passed 11th
February, 1852. Committee asked to be discharged
886 from further consideration.

P. 691. Bill No. 415, introduced by Mr. Cheatam, entitled, an Act to amend an Act passed 11th February, 1852, entitled an Act to establish a system, &c., read first time and passed, referred to Committee on Internal Improvements.

P. 912. House Bill No. 415 was withdrawn by Mr. Cheatam.

887 P. 691. Mr. Harris introduced bill No. 416, to amend the General Improvement Act of 1852, which was read the first time and passed.

P. 828. Mr. Hawkins introduced bill No. 456, to protect the State against losses on account of the issuance of bonds of the State to railroad companies, which was read the first time and referred to the Committee on Internal Improvements.

888 Comptroller's Report of 1855, p. 18.

Total liabilities of the State, $3,992,856.66.

Page 37.—In addition to the actual indebtedness of the State as set forth in the preceding pages, bonds have been loaned and endorsed as follows:

Tennessee and Alabama Railroad, $300,000.
Total amount, $4,752,000.

P. 130. Report of R. G. Payne, Road Commissioner:— 889

A few suggestions as to our Internal Improvement Laws, and I shall close. No certain provisions for the adequate preparation of a sinking fund for the redemption of the State bonds has as yet been made. Instead of requiring companies to set apart a portion of their earnings for this purpose five years from the completion of their road, as is now the case, it ought to commence within a certain specified period from the issuance of the bonds. 890

Our bonds are now placed in the hands of different officers of the company. In many instances they have no experience in the money markets of the United States and Europe. The effect cannot be otherwise than injurious to the interests of the State as well as the companies.

Several States have been forced to abandon this policy, and to appoint special agents at the great centers of capital to negotiate their bonds. The plan has worked well, and I submit that something of the same should be done in Tennessee. 891

House Journal, 1855-6.

P. 87. Mr. Brown, of Madison, introduced bill No. 44, entitled a bill to amend the second section of an Act passed 8th February, 1854, entitled an Act to amend an Act passed 11th February, 1852, entitled an Act to establish a system of Internal Improvements in this State, read the first time and passed. 892

Mr. Brown, of Madison, moved to take up bill No. 44, as above, which was read the second time and passed.

P. 106. On motion of Mr. Kinney, amended and passed its third reading, entitled as above.

Mr. Bullard moved to lay it on the table, which motion prevailed.

901 P. 511. House then resumed the consideration of unfinished business being bill No. 330.

Mr. Adams offered an amendment providing that the bonds endorsed under the provisions of this Act shall not be sold at less than par. Bill passed second reading.

P. 530. Mr. Burch moved to take up bill No. 330, motion prevailed, previous question called, House refused the call, the bill passed its third reading. 902

SENATE JOURNAL, 1855-6.

P. 207. Mr. Cheatam introduced bill No. 96 entitled a bill to equalize the State debt under the Act passed 11 February, 1852, and an Act passed February 8, 1854, read the first time and passed, and on motion one hundred copies ordered to be printed.

P. 212. Senate bill No. 96 read second time and referred to Internal Improvement Committee. 903

P. 231. Mr. Cauldwell from the Committee reported Senate bill No. 94, recommending striking out section four and passage of bill, recommendation concurred in.

Mr. Carter moved to amend bill by striking out thirty thousand dollars minimum cost of bridges receiving State and inserting twenty thousand dollars.

904 Mr. Cheatam moved to lay bill and amendment on table, motion prevailed.

P. 354. Mr. Smith introduced bill No. 184 entitled a bill to fix the interest at seven per cent. on bonds for works of Internal Improvement, passed and referred to Committee on Internal Improvements.

P. 430. Mr. Cox introduced Bill No. 208, entitled a bill to provide a sinking fund to redeem the bonds of

the State issued to railroad companies, passed and on 905
motion referred to a Committee on Judiciary.]

P. 457. A bill in lieu of House Bill No. 330 offered by Mr. Ellis, entitled a bill to amend the Internal Improvement law, passed February 11, 1852.

P. 463. Mr. Brown offered an amendment requiring
all the railroad companies who have received or may
receive State bonds in aid of their roads at the expira-
tion of five years after the issuance of said bonds to 906
pay into the treasury of the State two per cent. upon
said bonds as a sinking fund, which sinking fund shall
be invested by the Governor, Comptroller and Presi-
dent of the Bank of Tennessee as a Board of Commis-
sioners in State bonds; Providing, That any Company
failing to comply with said requirements shall be pro-
ceeded against by the District Attorney of the district
in which their place of business is situated, and the
said fund collected according to law.

907

This amendment Mr. Herd moved to lay on the table. Motion failed. Ayes, 28; noes, 3.

MESSAGE OF GOV. ANDREW JOHNSON.

908

Senate Journal, 1857-1858, p. 12.

"In the first place, I would most respectfully call your attention to the actual indebtedness of the State up to this time, which is as follows:"*

---

*(Here follows a list of bonds other than those issued under the Acts of 1851-2 and subsequent laws.)

09 Further on, the Governor says, "State liability for bonds endorsed for and loaned to railroads, turnpike companies and the State Agricultural Bureau," p. 14.†

†(Here follows an account of Internal Improvement Bonds under the Legislation invoked in these suits.)

The bonds of the State which have been already issued
to the various Internal Improvement Companies
have been and are now selling in the money markets
at ruinous rates of discount, in fact, at a lower rate
10 of discount than the bonds of some of our sister States
whose resources and financial ability are not superior
9 if equal to those of Tennessee to meet their public
engagements. Tennessee bonds are issued and thrown
in the market without any definite information as to
what amount of bonds can be or will be issued under
existing laws, or as to whether future legislatures
will extend the amount to be issued. The want of
this information on the part of those who are willing
to invest their capital in State securities as to the
11 amount of bonds that can and will be thrown in the
market, deters and prevents many who would otherwise
9 make investments in Tennessee bonds. It is believed
that if the Legislature will fix upon some definite
and known limits to which the State credit is to be extended,
and especially so if that limit is clearly within
the financial ability of the State, it will have an immediate
influence upon the price and sale of the bonds now
in the market and those that are to be thrown upon it
hereafter for sale, which will greatly relieve those Internal
12 Improvement Companies which now have their
bonds hypothecated and which are entitled to the issuance
9 of bonds hereafter. I will therefore recommend
that our prospective public debt be well defined, and
that it be reduced to the lowest limit consistent with
the interest and credit of the State. The credit of
the State can be sustained by the aid of a little timely
and judicious legislation in the manner already indicated.
It would also add to the confidence and credit of

the State if the Constitution was so amended as to inhibit any future Legislature from creating any public debt beyond a limited amount without first submitting the proposition to the people for their approval or rejection, unless in some great emergency such as insurrection, rebellion or invasion. A proposition of this character at the present time to amend the Constitution of the State would be an earnest indication to capitalists that the public mind was healthy and sound in regard to State indebtedness, and its ultimate adoption would secure the people in future against improvident, logrolling legislation and the creation of heavy and excessive State indebtedness without at least first obtaining the peoples' consent. 913 914

Pages 16 to 24, the Governor recommends the winding up of the Bank of Tennessee.

Page 22, under the Act of 1851–52, by which the State credit was loaned to various railroad companies, provision was made that the interest accruing on bonds loaned should be paid into the Bank of Tennessee fifteen days before it became due in New York. Surely, any President of a railroad company having the money to pay the interest on bonds issued to his road, could in less than fifteen days by buying exchange from a bank or broker, or by shipping coin transfer the amount to New York or any other point in the Union. This is often done now, as many of the roads have issued bonds which are endorsed by the State. and the interest has been promptly met without any agency on the part of the Bank of Tennessee. Our merchants and manufacturers must necessarily have frequent payments to make in the Northern and Southern States. These payments are made by purchasing exchange from banks or brokers, and so long as capital is employed in any pursuit which requires the transmission of money from one point to another to pay for the articles purchased, there surely will be, even in the absence of all banks, exchange brokers or factors ready to supply any demand for exchange. 915 916

917 **COMPTROLLER'S REPORT FOR 1857.**

"In addition to the actual indebtedness of the State as shown in the preceding pages, bonds have been loaned and endorsed, as follows:

To the	East Tennessee and Georgia Railroad,	$1,020,000
"	Tennessee and Alabama Railroad,	500,000
"	Memphis and Ohio Railroad,	670,000
"	East Tennessee and Virginia Railroad,	1,559,000
"	Memphis and Charleston Railroad,	1,100,000
918 "	McMinnville and Manchester Railroad,	352,000
"	Mississippi and Tennessee Railroad,	672,000
"	Nashville and Chattanooga Railroad,	1,650,000
"	Mississippi and Blydensburg Plank Road,	25,000
"	Manskus Creek and Springfield Turnpike,	10,000
"	Mobile and Ohio Railroad,	706,000
"	Memphis and Little Rock Railroad,	350,000
919	Total amount,	$ 8,614,000.00
	To which add actual indebtedness,	4,142,856.66
	Makes the total liability of the State,	$12,756,856.66

From the foregoing table it will be seen that the
whole amount of bonds, up to the present time, endorsed by the State and issued directly to the several
roads, and for which it holds statutory liens on each
security is $8,614,000. The whole State liability, actual
920 and contingent up to the present date is $12,756,856.66.
This will be gradually increased as the unfinished roads
progress in construction. It will also be seen that the
actual indebtedness of the State is $4,142,856.66 for the
items, of which reference is had to page 20 of this
report, and for which the State has no source to look
to for payment, but must ultimately, as the debt
matures, be paid out of the State treasury, unless in
the meantime it is otherwise provided for. The liabil-

ity incurred on part of the State by loaning its credit 921
to the several railroad companies, together with the actual State indebtedness, make up the sum $12,756,856.66, the whole actual and contingent liability of the State.

In regard to the bonds issued to the several railroad companies, the State takes no stock; it only loans its credit in the shape of bonds, on graded roads, so far as to purchase iron and equipments, and a lien is thereby executed to the State upon the whole road and fixtures.
It is hardly probable that any road in Tennessee, under 922
the provisions of her internal improvement Acts will ever be undertaken without a prestige of success; before State liability begins private means must be expended in grading and cross-ties procured, which could only be obtained upon secure projects. Several of the roads are now finished and doing a handsome business; others are advancing under prospects warranting the hope of a speedy completion, and by their construction the landed property of the State has been enhanced in
value many millions. Not a single road has yet become 923
a defaulter, but all have uniformly paid their interest with great promptness; will, in my judgment, be able to continue to do so; also to pay a sinking fund as required by law, with which to meet the bonds upon maturity; the first installment due having been already paid into the treasury. It is not probable that any of the roads finished or in course of construction, will ever become chargeable to the State, and thereby affect its credit. If any one of the several roads
should prove to be a failure, and become so, the iron 924
and equipments alone would very nearly meet the loan. So in any event, the State could not be seriously embarrassed. In such case the interest would be promptly paid by the State, through the Bank of Tennessee, which has ample means to do so. But, as I before stated, the State loans its credit only to a specific amount to each road, after it is graded and the cross-ties procured, which must be done with private means,

925 for the purchase of iron and equipments only, when a lien upon the whole road and fixtures, which has priority over all others, is executed to the State.

All of which is respectfully submitted.

JAMES C. LUTHRELL,
Comptroller of Tennessee.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an extract from the Report of the Comptroller of Tennessee to the General Assembly of said State, taken 926 from the appendix to the Journals of the Legislature of 1857-8, a printed copy of which is on file in my office, but the original of said Comptroller's Report is not on file in my office, and cannot be found in my office.

In testimony whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the [L.S.] Great Seal of the State of Tennessee, 927 at the Department in the City of Nashville, this 30th day of July, A.D. 1879.

CHAS. N. GIBBS,
Secretary of State.

State of Tennessee, }
Davidson County. }

I, Jno. C. Ferriss, sole presiding Judge of the County Court of said county, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to 928 the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand at office, in Nashville, this 31st day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, } 929
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that JNO. C. FERRISS, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

Given under my hand, at office, in Nashville, this 31st day of July, 1879. 930
J. R. McCANN,
Clerk.

REPORT OF COMMISSIONER OF ROADS, R. G. PAYNE. 931

APPENDIX, 1857–8.

Tabular statement of the condition of Tennessee railroads.

P. 39. It is proper here to state as a fact highly creditable to the Tennessee companies that they have uniformily met the interest on their State debt. This has to be done by the companies whose roads are in a precarious way, and when constantly recurring and heavy claims of contractors have also to be made. 932

P. 45. It is well known that our State securities have been selling at a heavy discount for two years past at such rates as were not justified by the resources of the State, nor its character for promptness in the discharge of its pecuniary obligations. Several causes have conspired to depreciate the value of the State bonds independent of any peculiar condition of the money market. In the first place, these bonds are often handed over to directors in payment of the company's indebtedness to them, the holders being anxious to realize cash, are disposed to press their sale in the first market they can find without much reference to what may or may not be obtained for their bonds. The railroad agent also, who is charged with the duty of negotiating the State bonds, is often unskilled in the business, contracts with shrewd operators, suffers ruinous loss in the way of brokerage, commission, charges for advancement, which such characters know so well how to put upon uninitiated holders. But the most potent cause of this decline in the value of State bonds may be found in the character of former legislation on the subject of State aid. A large number of roads were chartered with the pledge of State loans to the respective companies. On paper the present and prospective liability of the State may be run up to at least twenty-five million dollars. The capitalist is inclined to regard all these chartered roads, and to fear also for more extended liberality on the part of the legislative authorities. He therefore becomes alarmed for the safety of the State debt, and places his discount accordingly. If the roads not now placed under contract should be lopped of from the system, which certainly can be done without violence to any interest or section, and the policy rigidly adopted witholding State aid from any future enterprises it would do much to restore the depreciated credit of the State.

The present law requiring railroad officers to make biennial report to the road commissioner at least sixty days before the meeting of the Legislature, can possibly be made more efficient, then issue condensed statements from the reports of the several railroad companies in Tennessee.

REPORT OF THE JOINT SELECT COMMITTEE 937

APPOINTED BY THE

GENERAL ASSEMBLY OF 1857-8,

To Investigate the Offices of Comptroller and Secretary of State.

The Committee beg leave to submit the following 938
report under that part of the resolution which requires
them to "inquire and ascertain what amount of interest
has been paid on the State coupon bonds, and what
amount should have been paid, so as to ascertain
whether any payments have been improperly made."

The Committee, upon this branch of their investigation,
have had many difficulties to encounter. They
referred to the Comptrollers' reports for the last six
years for the information desired, but were soon convinced
that they could not be relied upon, either as to 939
the exact amount of our indebtedness, or as to the rate
of interest the bonds were bearing; nor did said reports
furnish us with full information as to the bonds loaned
to the various Internal Improvement Companies, or as
to the bonds endorsed by the State. To report fully and
accurately under the resolution, it became necessary to
get at the actual amount of indebtedness, the date
when the bonds were issued, and when they fell due,
and the rate of interest they bear, which would give
the amount of interest due on the bonds outstanding. 940
It likewise became necessary to arrive accurately at the
amount of bonds loaned and endorsed by the State to
the various companies, and to see the amount of
interest they bore annually, and the amount actually
paid; and whether said companies had always met
the interest paid on the bonds loaned and endorsed. To
arrive at the whole matter correctly, the Committee
have carefully examined and compared the original

941 books and papers in the office of the Comptroller and Secretary of State, which have been very imperfectly kept, and from them, and other information, they have made out tables showing everything in regard to the issuance of bonds, and the interest they bear, when issued, and when they fall due. Each item of State indebtedness has been very carefully and critically examined from the original sources, and the Committee feel that they can submit the various tables, each one of which will be fully explained hereafter, with perfect
942 confidence in their accuracy. * * *

EXPLANATORY NOTES.

The following tables marked "A," show the number and amount of bonds loaned to and endorsed for the various railroad companies, and the names of the companies. They likewise show the Nos. of the bonds, the rate of interest they bear, the time they fall due, and the time the first coupon falls due. These tables include all the bonds that have been issued to railroad
943 companies, or bonds which have been endorsed by the State to said companies, to July 1, 1858.

Table "B" is a recapitulation of the whole amount of bonds loaned to and endorsed for the various railroad companies, and the semi-annual and annual interests they bear.

The table "C" show the number of bonds, when the coupons are due and paid, likewise the semi-annual interest due on the bonds of each railroad company, and which amount with the exchange is required to
944 be paid into the Bank of Tennessee fifteen days before the 1st of January and July of each year.

The tables "D" show when the coupons are due and paid, and the amount of money paid by the companies to the Bank of Tennessee, and the number of coupons returned by them, showing in full how the interest has been paid by the various railroad companies on the bonds loaned to them. The Committee have carefully examined the whole matter from July 1, 1853, to July

1, 1858, and find it correct, and they are confident it is also correct before that time.

These tables will show all the transactions of the Bank of Tennessee, in paying off the interest (on) bonds loaned to the railroad companies. The Committee find that the accounts of the Bank of Tennessee with the railroad companies and the State have been kept with great care and accuracy, and are correct in every particular, and she has made a most satisfactory exhibit of these transactions with the railroads, also with the State Treasury and Comptroller.

The tables marked "E" exhibit lists of the renewed bonds, and the old outstanding bonds together with their numbers and the dates when the bonds issued to the various turnpike and railroad companies fall due. The notes under the different lists that speak of bonds renewed twice are correct from the renewed bond book; but the Committee are satisfied that these renewals occurred in mistake, arising from the difficulty in deciphering the numbers on the old bonds, mistaking one number for another. These are the only tables that show the exact date when these bonds mature.

The tables from page 41 to 49 exhibit the dates from the original receipts when these bonds fall due, but owing to the Act of 1852, authorizing the renewal of bonds, the dates of maturity were changed by renewal, and tables marked "E" show the exact maturity of the bonds.

949 (A.)

TENNESSEE AND ALABAMA RAILROAD COMPANY.

	When Due.	Nos. Bonds.	Loaned Bonds of the State of Tennessee.	
	Jan. 1, 1892.	916 to 1,115	200 Bonds, first coupons, due Jan. 1, 1855,	$200,000 00
		1,116 " 1,125	100 " " " "	100,000 00
		6,220 " 6,269	50 " July 1, 1858,	50,000 00
950		6,320 " 6,423	104 " " " "	104,000 00
		6,781 " 6,848	68 " " " "	68,000 00
		6,849 " 7,080	232 " " " "	232,000 00
		,5971 to 5,987	17 " " " "	17,000 00
			771	$771,000 00
			Endorsed Bonds of the State of Tennesee.	
	Jan. 1, 1857.		46 Endorsed Bonds, 1st coupons, due July 1, 1857,	46,000 00
951	To Jan. 25, 1858.		817 Bonds amounting to	$817,000 00

(A.)

LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

952

When Due.	Nos. Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892.	6,120 to 6,219 } 6,270 to 6,319 }	150 Bonds, 1st coupons, due July 1, 1858,	$150,000 00
" " "	6,424 to 6,573	150 " " " "	150,000 00
To June 25, 1858.		300 Bonds amounting to	$300,000 00

(C.) 953

INTEREST ACCOUNT OF TENNESSEE AND ALABAMA RAILROAD COMPANY.

Bonds.	Coupons when Due.	When Paid.	Semi-annual Interest.
300	Jan. 1, 1855.	Jan. 1, 1855.	$9,000.
"	July 1, 1855.	July 1, 1855.	9,000.
"	Jan. 1, 1856.	Jan. 1, 1856.	9,000.
"	July 1, 1856.	July 1, 1856.	9,000.
"	Jan. 1, 1857.	Jan. 1, 1857.	9,000.
"	July 1, 1857.	July 1, 1857.	9,000.
"	Jan. 1, 1858.	Jan. 1, 1858.	9,000.
471			
771	July 1, 1858.	July 1, 1858.	$23,230.

954

(D.)

INTEREST PAID BY BANK OF TENNESSEE FOR THE TENNESSEE AND ALABAMA R. R. COMPANY.

955

When Due.	When Paid.	In Cash.	No. Coupons.	Amount Coupons.	To'l Int. Paid by Bank.
Jan. 1, 1855.		$4,039.00	168	5,040.00	$9,079.20
July 1, 1855.	June 14, 1875.	4,770.00	141	4,230.00	9,000.00
Jan. 1, 1856.	June 3, 1856.	9,000.00			9,000.00
July 1, 1856.	June 12, 1856.	9,000.00			9,000.00
Jan. 1, 1857.	April 9, 1857.	9,000.00			9,000.00
July 1, 1857.	Aug. 21, 1857.	9,000.00			9,000.00
Jan. 1, 1858.	June 1, 1858.	9,000.09			9,000.00
July 1, 1858.	July 1, 1858.	23,130.00			23,130.00

(C.) 956

INTEREST ACCOUNT OF LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

Bonds.	Coupons when Due.	When Paid.	Amt. Semi-annual Int.
300.	July 1, 1858.		$9,000.

957 (D.)

INTEREST PAID BY BANK OF TENNESSEE FOR THE LOUISVILLE RAILROAD COMPANY.

When Due.	When Paid.	In Cash.	No. Coup's.	Amt. Coup's.	Total Int. Paid.
July 1, 1858.	July 1, 1858.	$9,000.			$9,000

958

The Bank of Tennessee had to loan to the McMinnville and Manchester Railroad about twelve thousand dollars, to enable it to pay the interest on the bonds of the State falling due in January last, which have been loaned to it.

The Mississippi Central and Tennessee Railroad did not pay the interest at maturity, but has since paid all the interest due 1st January last, except the sum of $253.66, which is yet due the Bank of Tennessee, having paid the interest in New York. The other companies paid their interest promptly. 959

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of the Report of the Joint Select Committee, appointed by the General Assembly of 1857-8, to investigate the offices of Comptroller and Secretary of State, &c., a private copy of which is now on record in my office.

960 In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the great seal of the State of Tennessee, at the Department, in the city of Nashville, this 21st day of July A. D., 1879.

[L. S.]

CHAS. N. GIBBS,
Secretary of State.

State of Tennessee, }
Davidson County. } 961

I, **Jno. C. Ferris**, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer. 962

Given under my hand, at office in Nashville, this 22d day of July, 1879. }

JNO. C. FERRIS,
County Judge.

State of Tennessee, }
Davidson County. }

I, J. R. **McCann**, Clerk of the County Court of said County, do hereby certify that **Jno. C. Ferris**, whose genuine signature appears to the foregoing certificate, 963
is now, and was at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

Witness my hand, and seal of said Court, at office, this 22d day of July, 1879.

J. R. **McCann**,
Clerk. 964

Senate Journal, 1859-60,

Page 265, House resolution No. 291, directing the Secretary of State to distribute the report of the Joint Select Committee appointed by the General Assembly of 1857-58, to investigate the offices of Comptroller, Secretary, and other purposes, which resolution was adopted by the Senate.

965 REPORT OF ISHAM G. HARRIS,

March 2d, 1858.

But one of the most serious evils to be apprehended from the policy of issuing State bonds to increase her capital, is the depression of our State securities, which is a result that must follow inevitably as that supply and demand control the price of property. Why is it that Tennessee six per cent. bonds are now selling in New York from 88 to 90 cents, while Kentucky six per cent.
966 bonds are selling in the same market from 102 to 103 cents on the dollar? Has Kentucky been more punctual in payment of her liabilities than Tennessee? This will not be pretended, for no State has paid her liabilities more punctually than Tennessee. Are the resources of Kentucky more superior to those of Tennessee? The last census report show that they are not. Why this difference, then, in the market value of the securities of the two States? The answer is to be found in the fact that Kentucky has issued very few
967 State bonds, while we, with our system of legislation, have issued and authorized the issuance of nearly twenty millions, an amount so large that we have, to some extent, tasked the confidence of capitalists in our ability to meet our heavy and constantly increasing liabilities. Our State securities have, however, within the last few months, advanced from about 70 to 88 or 90 cents on the dollar. And this, too, during the period of the severest financial derangement and pecuniary pressure. It is apparent that the reason of this appre-
968 ciation is to be found in the fact of the distinct and unequivocal declarations of both political parties in the State prior to and about the commencement of your present session that the liabilities of the State should not be increased.

But let the Legislature require the issuance of $1,250,000 to be thrown upon the money market of the world, to raise capital to invest in uncertain and hazardous enterprise of banking, and all the confidence

which our pledges and declarations have inspired is at 969
once destroyed. Although the amount is comparatively
small, and not sufficient of itself to produce any great
amount of evil, yet capitalists will regard it as a violation
of our pledges against an increase of State liabilities,
and just in proportion to the doubts that they
may entertain as to when and where we will stop this
increase of liabilities, just in that proportion will our
State securities depreciate.

The bonds cannot be sold except at a ruinous discount,
and the fact of your having authorized their issuance 970
will depreciate the bonds now held by the various
internal improvement companies, thus crippling
and retarding their progress, if not defeating their enterprises.

As to the necessity of the Bank of Tennessee, as a
fiscal agent, I have only to say that I do not consider it
at all necessary to the successful management of the
financial affairs of the State.

Under the present system, if the State has to make a
payment within her own limits, the Treasurer makes a 971
payment by checking upon funds of the Treasury on
deposit in the bank. Here the only agency the bank
has in that payment is to pay the check of the Treasurer
thus as she pays the check of every other depositor, and if
the payment is to be made beyond the limits of the
State it is made out of money of the Treasurer with the
current rate of exchange, and in many instances one
half per cent. commission to the correspondent of the
bank in New York; so the only agency the Bank has in
this case is simply to transmit the fund to the place of 972
payment. In making the payment within the State the
Treasurer could count the money to the creditor and
pay it to him as easily as he could count out his deposits
to the Bank and then check for the amount due
to the creditor, and in making a payment in New York
or elsewhere beyond the limits of the State, he
could purchase exchange and forward it himself.
It would only cost him the current rate of exchange,

973 and the State pays that under the present system,
or he could ship the coin if necessary.

The only agency the Bank has in the first case is to pay
the check of one of her depositors, the Treasurer, in the
second case to transmit the funds provided by the
Treasurer to the place of payment, and this could cer-
tainly be done as well by the accountant officers of the
Treasury as by the officers of the Bank. With regard
to the payments which our several railroad companies
have to make semi-annually in New York the compan-
974 ies are bound to furnish to the Bank the money with
the current rate of exchange fifteen days before the in-
terest falls due in New York, and if they fail to do so,
it is the duty of the Bank to report to the company in
default. As none have been reported it is fair to pre-
sume that they have complied with the law in this
respect. Now, if the railroad companies furnish the
Bank with the money and the current rate of exchange
with one half per cent. commission fifteen days before
the interest falls due in New York, could they not
975 within that fifteen days just as easily purchase the ex-
change and transmit it themselves. It would cost them
very little trouble to do so and not one cent more than
it cost them to make the payment through the instru-
mentality of the Bank.

GOVERNOR HARRIS' MESSAGE OF OCTOBER 5th, 1859.

976

The Actual Indebtedness of the State.

Is as follows :

5 per cent. bonds, issued for State stock in Turnpike Roads,	$1,091,190 00
5½ per cent. Bonds, issued for same purpose,	137,166 66

Total for stock in Turnpike Roads,		$1,228,356 66	977
5 per cent. Bonds, issued for State stock in the Memphis and La Grange Railroad,	83,250 00		
5½ per cent. Bonds, issued for same,	102,000 00		
Total for State stock in Railroads,		835,250 00	978
5 per cent. Bonds, issued for State stock in the Union Bank, yet unpaid,	125,000 00		
6 per cent. Bonds, issued to raise capital of the Bank of Tennessee,	1,000,000 00		979
Total for bank stock, yet unpaid,		1,125,000 00	
6 per cent. Bonds, issued for the construction of State capital, yet unpaid,		608,000 00	
6 per cent. Bonds, issued for the purchase of the Hermitage,		48,000 00	980
Total actual indebtedness of the State,		$3,844,606 66	
Upon which an annual interest is paid of	$209,388 25		

981 THE LIABILITIES OF THE STATE.

On account of bonds loaned to Internal Improvement Companies, are as follows, to wit:

6 per cent. Bonds of the State, interest payable semi-annually loaned to Railroad Companies,	$10,384,000 00	
6 per cent. Bonds of the State loaned to Turnpike Companies, 982	57,000 00	
6 per cent. Bonds of the State loaned to Agricultural Bureau,	30,000 00	
Total amount of Bonds loaned		$10,435,000 00
Bonds of Internal Improvement Companies, the payment of the principal and interest of which is guaranted by the State, are as follows to wit: 983		
The Bonds of Railroad Companies	2,014,000 00	
The Bonds of the City of Memphis for the benefit of Memphis and Little Rock Railroad Co.,	350,000 00	
984 Total amount of endorsed Bonds		$2,364,000 00
Total present liabilities of the State exclusive of actual indebtedness,		12,799,000 00
And actual debt of the State		3,844,606 66
Which makes the total liabilities of the State of every character,		$16,643,606 66

As most of the Internal Improvements to which the aid of the State is pledged by existing laws, are completed, or far advanced towards completion, it is confidently believed that the prospective liabilities of the State in aid of those works will not far exceed three millions of dollars.

The indomitable energy and enterprise of our people, and the very liberal policy pursued by the State government, have secured to the State a splendid system of Railroads and Turnpikes, which give to every section of the Commonwealth easy access to the markets of the world.

It is gratifying that I am able to state to you, that up to this time our railroad companies have paid each installment of interest upon their State bonds promptly at maturity. The fact that they have been able to do so, through a period of commercial revulsion and general financial derangement throughout the whole country, while most of their roads were in progress of construction, with only short and only disconnectede lines in operation, necessairly earning very little compared with what their earnings must be when completed and important commercial connections are formed, and through trade established, encourage the confident belief that now, as the various roads are being completed, penetrating every commercial locality within the Atlantic States, greatly increasing their business and profits, that they will in future be able to pay, as they have done heretofore, all of their liabilities promptly as they fall due.

The Act of 1856, Chapter 120, requires all railroad companies which have received the aid of the State, either by the loan or endorsement of bonds at the expiration of five years from the date of issuance, and annually thereafter to pay into the treasury of the State a sinking fund of 2 per cent. upon the amount of said bonds, and makes the duty of the Governor, Comptroller and President of the Bank of Tennessee, as a Board of Sinking Fund Commissioners, to invest said

989 fund in 6 per cent. bonds of the State, and annually re-invest the accruing interest, &c.

The first installment of this fund fell due in 1858, since which time we have collected from the various companies $82,840.95, which we have invested, with the interest accruing on the same in the 6 per cent. bonds of the State, and those endorsed by the State, amounting in the aggregate to $109,750, having purchased said bonds at the current rate of discount; upon which we will hereafter collect an interest of $6,417.50 annually.

990 These bonds are deposited in the Bank of Tennessee, and the receipt of the President of the Bank for them is on file in the Comptroller's office. The Commissioners have deemed it proper to keep the account of each company separate, and invest the funds each for its own benefit. For a statement of their various accounts you are referred to the Comptroller's report.

The time fixed by the Act referred to for the payment of this fund is "at the expiration of five years from the date of issuance or endorsement." The
991 general internal improvement act requires all bonds to bear date the first of January of the year of which they are issued, under which all bonds issued within the year must bear the same date, though in point of fact portions of them are being issued and delivered to the companies every month in the year. To avoid the necessity of frequent settlements with the various companies and the collection of sums too small for investment in a bond, and inasmuch as the bonds all bear date the first day of January, I have fixed that as the
992 day upon which the annual installment is due and payable.

Some of the companies contend with plausibility, if not, indeed, correctly, that the first instalment of the sinking fund upon each separate lot of bonds received by them falls due five years from the date upon which the bonds were received. If this be the proper construction of the act, it imposes the necessity of a number of settlements with each company every year, necessarily resulting in the collection of a small portion of this fund, each settlement and balance too small for investment, thus produced, lying idle in the hands of the Commissioners, to the injury of the compnny. I, therefore, respectfully recommend the passage of a law fixing a day upon which the entire sinking fund of each year shall be paid. This will obviate the necessity of more than one settlement with each company annually, and secure the collection of sums sufficiently large for investment. If the companies continue to pay their sinking fund as they have done heretofore, of which I have no doubt, the present mode of investment will extinguish the entire railroad debt of the State before maturity. It is to be regretted, however, that notwithstanding the entire success of our internal improvement enterprises thus far, and the fact that interest upon our bonds, and the bonds themselves as they have matured, have been in every instance punctually paid, yet Tennessee bonds are selling in the market at a discount of near ten per cent., owing in a great measure, as I believe, to the large number of them thrown upon the market, which has a tendency to shock the confidence of capitalists who know the extent of our liabilities, and know very little of our immense resources; and the manner in which they are but too frequently sold by inexperienced holders who know little or nothing of the stock market, at just such prices as they will command upon forced sale, is well calculated to depreciate the credit of the State, and has unquestionably had that effect to some extent. In view of which facts I cannot too earnestly recommend that the liabilities of the State be not increased.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of the message of Isham G. Harris, Governor of the State of Tennessee, delivered October 5th, 1859, to the General Assemby of the State, taken from the appendix to

997 the Journal of 1859-60, which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature; and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 21st day of July, A. D. 1879.

[L.S.]

998 CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. }

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate is now, and was at the time of
999 signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand at Office, in Nashville this 22d day of July, 1879.

JNO. C. FERRISS,
County Judge.

1000

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferris, whose genuine signature appears to the foregoing certificate, is now, and was, at the time of signing the same, sole presiding Judge of the County Court in and for said

County, duly elected and commissioned and qualified 1001
as such. And that said attestation is in due form of law.

Witness my hand and seal of said
Court, at office, this 22d day of
July, 1879.

[L.S.] J. R. McCANN,
Clerk.

Comptroller's Report of 1859, page 4.—Amount of
Sinking Fund for the Railroads, $83,096.60. 1002

State Debt.—Railroad Sinking Fund.

The entire indebtedness of the State, of every description, is $19,643,666.66. Of this, only $3,844,606.66 constitute the State debt proper, an amount which could be redeemed at any moment, if due, with the capital owned by the State in the Bank of Tennessee. All but $87,000 of the balance of the public debt ($12,799,000) was loaned to railroad companies in State
bonds, or the companies' bonds were endorsed by the 1003
State. There is no reason why these bonds should not command a premium for investment, if certainty of payment and ability to pay are inducements to capitalists. The material prosperity of the State, her taxable property having increased more than $150,000,000, from $219,011,047 to $377,208,641 since the completion of first railroad of 1854—the statutory liens upon the roads and fixtures in favor of the State—the certainty of the payment of interest through the Bank of Ten-
nessee and its compulsory payment to the bank by the 1004
roads, by removal of its officers and directors if not paid promptly, the wise provision of the Legislature creating a sinking fund for the ultimate redemption of the bonds, requiring two per centum per annum upon the amount loaned, with prompt process to collect; a sum so small as not to embarrass the operations of the roads, but large enough to redeem every bond issued before its maturity. The prosperity of the finished

1005 roads, their actual profit and comparatively small
bonded debt are material and ostensible guarantees,
without appealing to State pride, that these bonds will
be paid. If the railroads were worthless the debt
would still be paid. The annual interest upon
this railroad debt is $763,720.00, the two per cent.
added for a sinking fund would make $1,018,700. To
pay this the present State tax would be about double—
a tax much lighter than many of the States now pay.
But the railroads themselves have thus far shown an
1006 ability to pay the interest and the sinking fund, which
secures the ultimate redemption of the bonds, by their
profits as well as dividends to the stockholders. It
does not matter to the State or the bondholder, whether
the roads make profit for the stockholders or not, so
long as the interest and the sinking fund are certainly
made. The stockholders might feel compensated for
their entire loss of stock by the enhancement in the
value of their lands through which the roads pass.
The State lends to the company $10,000 of its bonds
1007 for each mile of railroad, and additional for bridge
and making about $11,000 for each mile. The cost of
the finished roads, fixtures, and equipments, average
about $27,000 or $28,000 per mile. The State and the
bondholder, being interested in the profits only to the
extent to recover the interest and sinking fund upon
the $11,000, would always be safe as long as the road
made 8 per cent. on that amount, or about 3 per cent.
on the whole cost of the road. And this per cent. or
any per cent. is much more easily made by a Tennessee
1008 Railroad than a Northern one—it costs about double
as much to build a road there as here—of course the
road there will have to make double as much as the
road here to pay the same interest upon its cost. Besides,
I understand there is more capital paid here at
the time of building the road than there—here the
roads are mostly paid for at the time of building, with
the exception of the (about) $11,000 per mile—there,
most of the companies issue $30,000 or $40,000 or more

bonds of the companies for each mile, bearing too, 1009
seven or eight per cent., while ours is six per cent.,
thus creating a further necessity to make
more than double as much as our roads to declare
the same profits upon the cost. The northern
roads are not therefore comparable to ours as security
for investment in the stock even, and much less so in
the bonds they issue, and the bonds issued here for
railroad purposes, having the Company and the State
both bound in Tennessee. To illustrate the safety to
the bondholders, as well as to the State, it is but necessary 1010
to glance at the present condition and operations
of the finished roads in the State—those not noticed
having been finished less than a year or the facts concerning
them not readily accessible. The Nashville
and Chattanooga road, fixtures, and equipments cost
about $28,000 per mile. The State endorsed her bonds
for $1,650,000, the interest and sinking fund upon which
amount to $132,000.00—the net profits of the road for
1859 are $320,000.00, leaving $188,000.00, after paying
interest and sinking fund, to be distributed among the 1011
stockholders.

The Memphis and Charleston Railroad, fixtures and
equipments cost about $28,000 per mile—the State
loaned it $1,100,000; the road issued $2,000,000 of her
bonds—interest upon the whole and sinking fund upon
the part loand by the State are $208,000.00, the net
profits of the road for 1859 were $600,000.00, leaving
$392,000.00 to be divided as profits among stockholders.

The East Tennessee and Georgia Railroad, fixtures 1012
and equipments cost about $27,000 per mile—the State
loaned and endorsed for it $1,312,000.00 of bonds, the
interest and sinking fund upon that amount are $104,960.00—the
net profits of the road for 1859 are $162,000.00—leaving
$57,000 to be distributed among the
stockholders."

1013 *Register of Bonds and payment of Coupons*, page
3 of the report.

"Sections 209 to 213 inclusive, are unreasonable,
impracticable, and unnecessary, and throw an
amount of labor upon this office impos-
sible to be performed, without a heavy clerical
force, and keep up with its current business. Section
209 requires the Comptroller to keep a book in which
to register the number and date of every bond hereto-
1014 fore or hereafter to be issued, to whom, and for what
purpose. The Secretary of the State does this. His is
the office from which bonds issue, and to whom re-
ceipts in a book are given. There is no necessity for
the Comptroller to do it, and, after being done, it
would be but a copy from the Secretary's books, and
not receivable, except by special enactment, as evidence
anywhere. It is an immense labor upon an officer al-
ready overburthened with legitimate business, without
any practical or beneficial result being accomplished.
1015 Section 210 requires a continuation of unnecessary
labor, by having all the coupons marked in columns
opposite the bonds, the time when they fall due, and
marked as paid. When a coupon is paid, every mater-
ial fact is and always has been put upon a book in the
Comptroller's office, at the time the warrant issues;
when it is paid by the Treasurer, the receipt is returned
to the Comptroller, when he countersigns the check for
it, and the same facts go upon another book. It would
seem that putting down all the facts twice would be suf-
1016 ficient, but this law requires the same facts in a third
book, with no counterfacts or checks upon it, as the
former are by the Treasurer's books. Besides it is a
moral impossibility to do it. More than three-fourths
of the bonds of the State have been issued to railroad
companies, with the coupons payable in New York;
the Bank of Tennessee, as agent for the railroads, pays
them there; they are never presented to the Comptrol-
ler, and he cannot know of their payment, except upon

hearsay evidence, and his record of the facts would be 1017
worthless.

Section 211 requires the bond book of the Comptroller to show the final payment of the bond. His ordinary books do that if paid at the treasury, and it is therefore unnecessary to keep other and unusual book for the purpose. The Secretary of State (section 197, sub-section 18) is required as the more proper officer, and the one from which they issue, to keep a registry of the payment and cancellation of bonds.

Section 212 requires a repetition in a third book of 1018
what is always put in two books in the Comptroller's office with the additional labor of writing the number of the warrant upon the coupon, and saying who presented, not owned it. The books used for the payment of all other claims against the State show all the facts. I always cancel a coupon upon paying it, and paste it in a book. They are not debts of a more sacred character than others—not more likely to be paid twice—cannot be when cancelled—receipts are always taken as other claims—any malpractice in their 1019
repayment would be as discoverable as any other fraud upon the treasury.

Section 213 contains the penalty for a violation of these provisions—quite an inducement to a common informer. It is to be hoped these sections will be repealed, and the law substituted requiring the coupons to be cancelled and filed with the receipts, as other claims are. Then each case could be examined for itself.

While upon the subject of the Comptroller's duties, 1020
I would say that it is impossible for any one man to perform himself all the labors of this office, unless he have much higher qualifications for business than the present incumbent. Requiring the Comptroller to pay his own clerk hire, is equivalent to a reduction of his salary to that extent.

Page 15, Disbursements for the second year, ending October 1st, 1859, Interest on Internal Improvement Bonds $373,800.72.

1021 Page 13, Interest on Internal Improvement Bonds $38,256.91.

Page 46, Recapitulation.

State bonds loaned to railroad companies $10,348.000.00, State debt proper $3,844,606.66.

Page 57. Sinking fund for Railroads.

Acts of 1855-6, Chapter 120, Section 6, provides:

1022 "In compliance with this Statute, the following Railroad Companies have paid into the treasury the respective sums here credited which has been invested in the purchase of bonds as here described, the accruing interest on which, also, appears to the credit of the different roads for whose benefit the purchase was made.

Page 59, *Memphis & Charleston Railroad Company's sinking fund account.*

	No. of Bds.	Dr. To cash paid for	
1023	2	East Tenn. & Vir. R.R. Company's bonds each for $1,000, endorsed.	$1,460 00
	7	Capitol bonds each $1,000.........	6,450 00
	3	State 5 per cent. bonds each $1,000	5,040 00
	3	State 5¼ per cent. bonds each $1,000	
	5	East Tenn. & Georgia R. R. Company's bonds, each for $1,000 endorsed.........................	4,000 00
	20		$16,950 00

1024 Cr. Contra.

By Cash two per cent. calls paid.....................	$16,040 00	
Interest on bonds collected....	1,207 50	
	$17,247 50	
Balance................		297 50
		$17,247 50

Page 60, *Recapitulation.* 1025

No. of bds.	Whole amount received for 2 per cent. call from R. R. Companies that have had State aid for five years and are subject to the call by the aforesaid statute to this date	$82,840 95	
	Interest on bonds collected.........	5,617 50	
	Total	$88,458 45	1026

INVESTED AS FOLLOWS.

57	Nashville & Chattanooga R. R. Co. bonds, endorsed	$44,565 60		
21	East Tenn. & Va. R.R. Co.'s bonds...........	16,370 00		
14	State bonds 7,5 per cent State bonds 7,5¼ per cent	12,000 00		
7	Capitol bonds..........	6,450 00		1027
9	East Tenn. & Ga. R. R. Co.'s bonds............	7,200 00		
1	Memphis City bond.....	750 00		
	Bal. not enough for either road to buy a bond with	1,082 85		
109		$88,458 45	$88,458 45	

From the above it will be seen that $82,840.95 invested with accruing interest thereon has purchased bonds 1028 amounting to $109,750, which pays an annual interest of $6,417.50 or 7¾ per cent. on the investment up to this time.

Senate Journal, 1859-60.

P. 110. Mr. Newman introduced Senate bill No. 89.

A bill to be entitled An Act to systematize the rail-

1029 road sinking fund paid by the companies for the liquidation of the State debt, which bill passed first reading and was referred to the Committee on Internal Improvement.

P. 186. Mr. Payne, from the Committee on Internal Improvement, reports as follows:

The Committee on Internal Improvements beg leave to report that they have had under consideration Senate bill No. 89, entitled, An Act to systematize the
1030 railroad sinking fund paid by the companies for the liquidation of the State debt, and beg leave to report a bill in lieu of which is herewith submitted, entitled, An Act to provide for the equalization and investment of the sinking fund of the bonds issued to and endorsed for railroads in this State.

P. 189. Senate bill No. 89.

A bill to systematize the railroad sinking fund. A bill in lieu was offered by the Committee on Internal
1031 Improvements, which bill in lieu was amended by Mr. Payne, and the amendments offered by Mr. Payne were acceptod by the Committee, whereupon the bill in lieu, as amended, was adopted and was then taken up in second reading and the bill in lieu passed on second reading.

Tennessee House Journal, 1859-60.

On motion of Mr. Johnson the rules were suspended
1032 and Senate bill No. 89 to provide for the equalization and investment of the sinking fund of the bonds issued to or endorsed for railroads in this State was taken up, read the first time and passed.

Page 581. Senate bill No. 89 to provide for the equalization and investment of the sinking fund of the bonds issued to or endorsed for railroads in this State was taken up.

Mr. Bicknell proposed the following amendment : 1033

Provided further, that all Internal Improvement bonds hereafter to be issued by the State of Tennessee shall be State bonds of the State, instead of endorsed bonds of the State, and that all laws in conflict with this be, and the same are, hereby repealed, which amendment was rejected. Yeas, 69 ; nays, 48.

A bill entitled An Act to equalize and regulate the sinking fund and for its investment. Ayes, 20 ; nays, none. And said bill passed third reading, which lies 1034
over under the rule.

GOVERNOR HARRIS'S MESSAGE.

Executive Department,
January 16, 1861.

Gentlemen of the Senate and House of Representatives:

The Sinking Fund of 1855-6 contemplates the invest- 1035
ment of the fund as paid in, in the Internal Improvement Bonds of the State at par, by which means the entire railroad debt of the State would have been extinguished before maturity. The act of 1859 and 1860, repealing the above recited act, was intended and will accomplish the same result; but the commissioners have invested the fund paid in under the act of 1855-6 in bonds, at a discount of from eight to 25 per cent., by which much more of the debt has already been extin-
guished than the act contemplated. In view of which 1036
fact, and the failure of crops, derangement and prostration of commerce and general financial distress in all departments of business, it is certainly a hardship upon the railroad companies of the State to be compelled to pay, in these times of universal pecuniary distress, any part of the principal of a debt which does not fall due for 30 years. I therefore respectfully recommend the passage of an act suspending the operations of the Sinking Fund Law for the term of one year

1037 from this date, by which time another crop will have been made, and it may be reasonably hoped these companies will be in a condition to pay their sinking fund without material inconvenience or injury; and if the law is rigidly enforced after this suspension, as it has been heretofore, it will extinguish the debt by maturity.

Having learned from a portion of the people of Nashville and one of the representatives of the County of Davidson that the passage of an act authorizing the
1038 corporation of the City of Nashville to endorse certain income bonds of the Edgefield and Kentucky Railroad Company is desired by them and important to said company, at their instance I submit the question to your discretion.

The General Internal Improvement Law makes it the duty of the Governor to appoint Receivers to take charge of the roads and effects of railroad companies in certain contingencies, but the law fixes no salary or compensation for such service. The fact that the
1039 duties and responsibilities of the Receiver are much greater on some roads than on others, requires that the compensation of Receiver in each case depend to a great extent upon the character of duties and amount of responsibility imposed upon him.

I therefore recommend that you pass an act fixing the salary of Receivers or conferring upon some officer of the government the power to fix the compensation in each case.

Regretting as I do the necessity of multiplying the
1040 subjects of legislation at an extra session I have carefully avoided opening the fruitful fields of Internal Improvements, and confine myself strictly to the Sinking Fund Law, the salary of Railroad Receivers and authorising the Corporation of Nashville to endorse the Income Bonds of the Edgefield and Kentucky Railroad Company, if it should see proper to do so.

Which questions are respectfully submitted to your consideration.

ISHAM G. HARRIS.

COMPTROLLER'S REPORT 1041

Oct. 1861 of James T. Dunlap, (J. O. Griffith, Camp & Co., Printers to the State.)

Page 4: "There is but one Contingency now thought of that would demand an increased taxation upon the property of the State. If the railroads fail to meet the interest upon the bonds loaned to or endorsed for them, the State must pay. In ordinary times there is no difficulty in their meeting promptly their interest and sinking fund. With many of the larger and finished 1042
roads there is none now. The Nashville and Chattanooga, and some other roads, were reported to the Governor, not from inability to pay, but because, under the act of July 1, 1861, the interest was not allowed to be paid to citizens or corporations of the non-slaveholding States of the United States, and they felt they had a right to use their own money until it was needed for the payment of their own debts when presented. I mention this, not to justify the position they have assumed, but to show their ability to pay. It is probable 1843
the roads will pay the State as much interest upon their bonds as will be demanded during the existence of the war, and at its close, the resumption of their ordinary business may yield profits corresponding to their wants.

Same page.—BANK OF TENNESSEE,
NASHVILLE, TENN, Oct. 16, 1861,

Hon. Jas. T. Dunlap, Comptroller, etc.,

The Nashville & Chattanooga Railroad Company have had on deposit in this bank an average of $75.- 1044
000.00 for the past four months, having at no time during that period less than $45.000 at their credit; and are now and were on the 15th of June last the owners of 137 of the 150 bonds issued by the State of Tennessee for their benefit, the July, 1861, coupons on which have never been taken off, as the bonds were in New York. The Company would, notwithstanding the bonds were in New York, have paid their interest but lost

1045 sight of the fact that the collection had to be made through the treasurer instead of the Bank of Tennessee as heretofore.

Respectfully, etc.,
JNO. A. FISHER,
Cashier.

Page 7.—Railroad Receivers:

The salary of these officers, under the present law, is paid out of the Treasury. It occurs to me it ought 1046 to be paid out of the profits of the road before they are paid into the treasury, as other officers and employees of the road are paid. Unless this be done, the State, and not the road, will, upon final settlements, pay the salary of the Receivers, while the road continued in the possession of the State. The law requires the road to refund the interest paid by the State, but is silent as to the salaries being refunded. This is comparatively a small matter now, but, if the present derangement in trade and commerce continues, it may 1047 be of some magnitude eventually.

Same page.—*Interest on State Bonds:*

Until the passage of the law of July 1, the railroads were required to pay the interest upon State bonds loaned to them into the Bank of Tennessee fifteen days before it was due. The bank was then required, through its agents in New York, to pay it out to the bondholders, charging exchange and commissions for so doing. Under the present law the roads pay the interest into 1048 the treasury, and the treasury pays it out. There was no adequate reason for this change, which has thrown an immense labor upon the Comptroller and Treasurer. The bank can pay a coupon like any other check, but every payment by the treasury requires a warrant from the Comptroller, which is entered upon one book when issued, and another when paid; and, if all the coupons were paid separately, there would be, semi-annually, about 30,000 entries in the Comptroller's office, and half as many in the Treasurer's, an amount of labor almost impracticable to perform, all of which may be avoided by restoring the original law. 1049

Page 26.—Receipts from sinking fund for railroads,	$35,591 25
Disbursements.—Interest on Internal Improvement bonds,	186,771 13

Page 28.—The following is a table of the receipts and the expenditures for the second year, ending the 1st of October, 1861: 1050

Receipts.—From railroad companies, interest on bonds loaned by State,	$224,503 75
Disbursements.—Interest on Internal Improvement bonds,	287,467 92

Page 54.—By the Act of 20th of March, 1860, ch. 93, sec. 5, the "companies or corporations may pay said sinking fund in cash, or in the like character of bonds that may have been issued or endorsed by the State for said company, at their face or par value." 1051

In compliance with the above statute, the following railroad companies have paid their sinking fund calls for 1860, as here stated:

East Tenn. & Va. R. R. Company, Dr.

To semi-annual call, due 1st April, 1860,		$8,362 50
" " " " 1st October, 1860,		8,362 50
Total,		$16,725 00
Cr.		
By 15 of their endorsed bonds, for $1,000 each,	$15,000	
By 2 regular State bonds, for $1,000 each,	2,000	
Total,		$17,000 00

1052

1053 GOVERNOR BROWNLOWS MESSAGE, 1865.

APRIL 6TH.

The State debt, as reported by the Comptroller, in October, 1861, is said to be $6,896,606.66, and this demands
your attention. This includes $3,000,000 of eight per
cent. bonds for the "defense of the State," which has
recently been discarded by the people at the ballot-box.
This unauthorized and most unjust indebtedness, repudiated,
leaves the indebtedness of the State properly
1054 $3,896,606.66 at an annual interest of $212,388 25. The
interest is presumed to have been paid on the first of
January, 1861. It is not known how much has since
been paid, if any. The bonds will show, either by the
endorsements or the absence of the coupons. Besides
this debt, the State has loaned bonds for internal improvement
purposes, and has endorsed the bonds of
railroad companies to the amount of $16,211,000.00.
For these the State is ultimately liable upon the failure
of the companies. These bonds it is believed the State
1055 will have to provide for, to preserve its credit,
making an aggregate indebtedness of $20,005,606.66
and the annual interest $1,185,048.25. Of this
debt proper $66,666.66 matured in 1861; $61,250 in
1862; $177,750 in 1863, and $58,500 in 1864—in all,
$366,166.66, at once to be provided for. The Comptroller
states that the bonds maturing in 1861 were "taken
possession of and held by the State, subject to adjustment
at the end of the war." Besides these, the State
held bonds, mostly her own, as follows: The Spencer
1056 T. Hunt Fund, 6; the Railroad Sinking Fund, 161;
deposited by the free banks, 341; deposited by foreign
insurance companies, 80; and in all 588 bonds. These
bonds, held in trust, were carried away, it is believed,
with the valuables of the State Treasury, by the State
officers, who ingloriously fled on the approach of the
national flag. Double payment can probably be
avoided. Evidence must be in existence by which they
can be identified. The notorious condition of our

State affairs has been sufficient to put dealers upon their guard. So that if any of the bonds have been fraudulently sold, payment to the present holders maybe justly stopped. Furthermore, it will be well to consider how far it is your duty as agents of the State not only not to pay the bonds by those who have been actively engaged in the rebellion to overthrow the Government; whether held by them or parties who may seek to conceal them for the benefit of the rebels, as they will likely do, I advise that you adopt measures to prevent their payment. The bonds can in no event compensate for the loss the disloyal holders have occasioned the State. The justice of holding them responsible in this way, it is believed, cannot be successfully controverted * * *

As you are aware, upon the approach of the national forces and their occupation of our country, the Government took possession of our railroads, in most of which the State is a large stockholder. The State is deeply interested in her internal improvements, as she has endorsed bonds at the rate of ten thousand dollars per mile, for nearly all the railroads in Tennessee. And as most of these bonds are held by guardians, for the benefit in many instances of minors and widows, I think it nothing more than simple justice, to pay them the interest already due them.

The Nashville and Chattanooga Railroad was taken possession of by the Federal authorities on the 7th of March, 1862, and has been held and used ever since, and, regarded as a military necessity, it was proper and right. Presuming the Government to have kept the account strictly, she is now about ready to make a settlement. My information is that certain officers of the company visited Washington on two different occasions for the purpose of obtaining a settlement with the Quartermaster General. They failed in their efforts though the President of the United States, who was present on both occasions, expressed his views verbally as favoring the payment of the company for the use of the road. You should now call upon the proper authori-

1061 ties at Washington for payment to this and other companies, requiring the money received to be applied to the payment of interest on their bonds. The amount endorsed by the State for the Nashville and Chattanooga Railroad Company is $1,535,000, and the interest accrued thereon is now nearly $300,000. It is believed that upon a just settlement the Government will owe the company largely over that amount. This road cost the company $3,846,900, including its equipments and depots.

1062 The other roads in the State are similarly situated, and demand your attention. Those officers of roads, and stockholders who fled south, carrying with them the rolling stock and funds, should be held to a strict accountability, and their property and stock should be made, in part, to atone for these losses to the State and country. The case of the East Tennessee and Georgia Railroad and its faithless President, requires our special attention.

It is believed the time has now come for the compan-
1063 ies again to use their roads for the Government, if need
be, under even a Military Superintendent—thereby
effecting a vast saving to the Government, asking only
the same pay for freights and passengers they are now
paying to the Louisville & Nashville Railroad Com-
pany; as this war is for the benefit of the whole nation,
it is not believed that the general Government intends
that Tennessee shall pay more than her just proportion
of the war debt.

Your attention is called to the fact that the Louis-
1064 ville and Nashville Railroad Company is running a
portion of that road in this State, say about sixty miles,
with another branch from Bowling Green to Clarks-
ville, and for all that portion of road in our State, the
Government pays the Kentucky Company as if the road
were in any other loyal State. The information I have
is to the effect that the Kentucky Company treats with

indifference the claims of Tennessee upon that road. It **1065**
is your duty to let that company know, in decided, but respectful terms, what your rights are, and that you dare assert and maintain them.

1066

1067

1068

1069 Report of Jos. S. Fowler, Comptroller, May, 1865.

(Title, Railroads, p. 8)

"Upon the occupation of the State, the railroads
were all siezed and run by the General Government,
except the Louisville and Nashville and Edgefield and
Kentucky. The former was left in the hands of the
company without any representative from Tennessee to
take care of her interests. Upon being notified, Gov.
Johnson appointed a Receiver for the Edgefield and
1070 Kentucky who run the road but a short time. The
constant raids of Confederate Cavalry in 1862 rendered
it impossible to run the road successfully, and finally
destroyed it for a period.

Early in 1862 I addressed the President of the Louis-
ville and Nashville Road a letter asking whether the
interest on the Tennessee bonds loaned the company
had been paid. The president replied that it had not,
and I inferred from the letter that it would not be, by
the company, giving as a reason for such a course, the
1071 fact that the State of Tennessee had, by its troops,
seized and held the road, destroyed its bridges and
profits. This question is one worthy the attention of
the State authorities, and it will be left for them to
determine whether the State is responsible for the con-
duct of those who inaugurated the rebellion. On this
subject we will only state, that neither the State nor
the companies have received any proceeds from any of
the roads, except the small sum from the Edgefield and
Kentucky Road in uncurrent funds.

1072 Neither the State nor the companies have received
any dividends or reports of transportation, rolling
stock, or any of the effects of roads, except in the case
of the President of the Chattanooga road, who has, I
am told, obtained a statement of a certain amount of
rolling stock of that road. That the Federal Govern-
ment will pay the State, for the use of the roads, a sum
adequate to meet the interest on the bonds, we cannot
doubt. The roads virtually passed into the hands of

the Governor of the State, when the companies ceased 1073 to pay the interest on the bonds loaned or endorsed by the State. They then became, for the purpose of paying this interest, the property of the loyal people of the State. It was then the duty of the Federal Government to confiscate the stock of Rebels, and pay the State, the representative of the loyal people, for the use of the road. Moreover, it was the duty of the Federal Government to protect the loyal men in the State. True faith is the duty of the citizen; protection and defence in the peaceful enjoyment of the citizens' 1074 rights, of the duties of the Government. From this source the State may reasonably expect assistance.

COMPTROLLER HATCHETT'S REPORT

To the Legislature in October, 1865.

RAILROADS AND TURNPIKES.

1075

Page 6. The accompanying table will show the amount to which the State has loaned its credit to the various Internal Improvement Companies within its limits, either by the issue of State bonds for the benefit of the Companies, or by the endorsement of the bonds of said companies.

According to the laws of the State, the companies for whose benefit such bonds are issued, are required to pay the interest thereon as its accrues, and upon a failure to do so, the law requires the roads so defaulting 1076 to be taken possession of by the State, and placed in the hands of a Receiver, who shall run it for the benefit of the State, until the interest which has accrued on its bonds shall have been paid from the net earnings of the road. One of the consequences of the recent rebellion was that all the railroads in the State ceased to pay the accruing interest on their bonds, some of them having paid no interest since July, 1861, while a few only paid up to January 1862.

So far as I am able to determine from the books of the former Comptroller, the unpaid interest now due, or which will be due on the first day of January next, amounts \$4,320,187. With a few exceptions, the companies are not believed to be at present in a condition promptly to pay this accumulated interest, and it is certain that the Treasury of the State is at this time in no condition to liquidate the debt. Under this state of affairs, it will devolve upon the wisdom of the Legislature to devise some practical means for preserving the faith and credit of the State, and at the same time protecting the rights and interests of the public creditors. Whether this shall be by funding the interest due, or by some other means, will be for you to determine. The law requiring the roads, upon the failure of the companies to pay the interest on their bonds, to be placed in the hands of a Receiver, was doubtless well calculated to protect the interest of the State in times of general prosperity when it might reasonably be supposed that failure to pay the interest would be the *exception* rather than the rule. Under the present state of affairs, however, when nearly all our roads are in a crippled condition, it is believed that the execution of this law would not only add greatly to the embarrassment of the State, but would materially injure the railroad interests of the State, which your legislation has hitherto been intended to foster and protect, and would in the end, defeat the object for which it was enacted, by depreciating the value of our railroads, thereby destroying in a measure the security which the State has by virtue of its lien for the ultimate payment of both principal and interest of these bonds. Such modification of the present laws, as will be best calculated to secure the State from ultimate loss, and also give roads an opportunity of availing themselves of the anticipated revival of business and prosperity is earnestly recommended. Two Railroads having failed to meet the interest due on the bonds issued for their benefit

prior to the rebellion, were taken possession of by the 1081
State and placed in the hands of Receivers, to wit: The Edgefield and Kentucky Railroad on the and the Winchester and Alabama Railroad on the

Since these railroads have been in possession of the military authorities, so far as I am informed, the Receivers have had no control over them. Neither does it appear from the books of this office that any settlement has been made with either of the said Receivers.
The Mobile and Ohio, the Nashville and Northwestern, 1082
the Louisville and Nashville Railroads have each drawn six per cent. bonds since the Legislature passed the Ordinance of Secession. The Mobile and Ohio on the 11th of June, 1861, received from the then Acting Governor, Isham G. Harris, one hundred and seventy-two bonds; the Nashville and Northwestern on the 23d of April, 1861, received one hundred and twenty bonds; the Louisville and Nashville on the 20th of April, 1861, received five State bonds. It is for you to say whether
these bonds shall be recognized or whether they shall 1083
be rejected as illegal.

SINKING FUND.

Page 8. Act of 1855-6, Chapter 120, provides for the creation of a Sinking Fund for the redemption of the bonds issued for the benefit of railroad companies chartered by the State at their maturity. Said act provides that at the expiration of five years from the issu-
ance or endorsement of their several bonds, they shall 1084
pay annually into the Treasury of the State, two per cent. upon all such bonds, so issued or endorsed for their benefit as a sinking fund for the redemption of those bonds. According to the report of a former Comptroller, a portion of the railroad companies of the State have complied with this requisition up to February 1st, 1861, at which time the operation of the law was suspended for one year by act of the Legislature.

1085 Since the suspension it is presumed that nothing has been done under the law.

"The Sinking Fund was deposited with the Bank of Tennessee, and a portion of the bonds belonging to said fund are known to be among the assets of the bank. From the condition in which the affairs of the bank remained, I am unable to present any satisfactory report as to the condition of this fund, but in view of the crippled condition of the majority of our railroad
1086 companies, I would suggest the further suspension of the operation of this law for such time as in the judgment of the Legislature the necessities of the companies may require and the interests of the State permit."

Report of the Comptroller in relation to Tennessee State bonds to the General Assembly at the Session of 1865-6.

GENTLEMEN: In accordance with joint resolution
1087 No. 49, of your last session, I have the honor to submit the following:

A special resolution made it the duty of the Comptroller to make publication in the public prints of the cities of Cincinnati, Nashville, Philadelphia, Boston and New York, requesting holders of the bonds of the State to transmit to the Comptroller at Nashville a statement of their names, residences, and the dates, numbers, amounts and character of the bonds in their possession. You will see from the following statement
1088 that not over four millions of bonds have been reported. The character of these bonds the owners in most instances failed to give. With a great deal of labor I have complied with your resolution as far as it was in my power to do.

S. W. HATCHETT,
Comptroller of Treasury.

Tennessee Senate Journal, 1st Session, 1865, p. 168. 1089

Mr. McKinney offered Senate Joint Resolution No. 75, to wit:

Resolved, by the General Assembly of the State of Tennessee, That the government be required to turn over the railroads in this State to the stockholders, and appoint an agent to settle with the companies for the use of the same. The amount received by the State first to be applied to pay the interest on State bonds for which the State is liable. 1090

The rules were suspended and the resolution taken up.

Mr. Hall moved to refer the resolution to the Committee on Internal Improvements; ayes, 13; nays, 8.

Appendix to House Journal, 1865–6.

Record of the committee appointed to examine the archives of the State and assets of the Bank of Tennessee, p. 32.

"One pack containing (9) nine bonds to East Tennessee & Virginia Railroad, bonds endorsed, assigned to Isham G. Harris and his successor in office as sinking fund for railroads." 1091

MESSAGE OF GOV. BROWNLOW.—OCTOBER 8, 1867.

Account between the State and the Railroads. 1092

The entire account of the State with the railroad companies, and especially that portion relating to the sinking fund, has been so badly kept during the war and before, that the books are very unsatisfactory. I advise the appointment of commissioners by your body to sit during your session and make new settlements with all the roads, so that the books may be made to show all settlements satisfactorily both to the State

1093 and the companies, and the expenses of such settlement will be more than compensated by rescuing the account from oblivion. In the discharge of my duties I have appointed receivers on as many as seven roads, and if the interest on their indebtedness to the State is not promptly met, I shall appoint guardians for the others. It is an outrage that nearly a million of dollars is due to the State from these defaulting companies.

1094 COMPTROLLER BLACKBURN'S REPORT, 1867.

RAILROADS.

These powerful engines of modern progress, so essentially
necessary in the developement of the resources
of a country, in bringing the great commercial centers
within easy reach of our most distant and interior
counties, bearing on their wings of steam, our cotton,
tobacco, corn, wheat, and other products, to the distant
seaboard, and returning freighted with all those articles
1095 needed by our people—this great interest in our State
built up by the capital of our citizens, and most liberally
assisted by an enlightened State policy, is now, on
account of injury received during the war, in rather a
depressed condition, so much so, (as will be seen by an
examination of the following table) that many of the
roads have failed to pay the interest due July last, on
the State's Bonds loaned them. This temporary embarrassment,
on the part of the roads that are yet embarrassed,
is owing to the large sums of money necessarily
1096 expended in repairing the damage done to the
roads during the war, as well as replacing with new
rails and machinery those worn out in the service of
the U. S. Government Transportation Department during
the war.

It seems reasonable to expect, however, now that the roads are once more in first-rate running order, and abundant crops give promise of returning commercial activity, that they will soon rise—those that have not

already—from their depressed condition, and again 1097
start forward on their career of usefulness and profit to themselves and the people.

The interest of the railroad companies is now, emphatically, the interest of the State. To them she has loaned her bonds to the amount of twenty-two millions of dollars, relying on said roads for the payment of the interest and the providing of a sinking fund for the ultimate redemption of the bonds. This was fully realized up to the commencement of the war, and now
that the cause of the failure to pay, with nearly all of 1098
its sad consequences, has almost disappeared, and the roads being repaired and fully equipped, we may, as I think—as before observed—with a little indulgence from the State to the roads that need it, expect, confidently, every road to meet its liabilities.

In order that your Honorable Body might know the character and amount of security the State retains for the large amount of bonds loaned to railroad companies, I have prepared from such data as this office
affords, and from information obtained from the roads, 1099
a tabular statement of the capital, together with the length and cost of all railroads in Tennessee, which will be found annexed. Also, in tabular form, headed "Railroads," a list of all railroads of Tennessee, the amount of bonds received by each, the amount cancelled by their respective sinking funds, amount of interest funded on the first day of January, 1866, and amount of interest due by each railroad company on the first of July last, with the July interest then due,
inclusive. 1100

REPORT OF COMPTROLLER BLACKBURN.

In 1867, The Sinking Fund—

"These bonds are not credited to the different railroad companies whose funds purchased them, as a

1101 question has arisen as to the construction of the Act of
1860, chap. 93, which directs all bonds purchased by
Sinking Funds, and interest accruing thereon up to
January 1st, 1860, to be credited to those railroad com-
panies entitled to such credit. As the Sinking Fund
Commissioners did not so credit them at the time pre-
scribed by the act aforesaid, the question of their dis-
position is referred to the Legislature, which will, in
justice to the railroad companies, I apprehend, direct
that the amount of said bonds be credited to their ac-
1102 counts."

GOVERNOR'S MESSAGE.—NOVEMBER 21, 1867.

House Journal, 1867-8.

"I deem it my duty to call the attention of the Leg-
islature to the necessity of yielding a prudent but lib-
eral aid to the railroads of the State to place them in a
condition to be productive and enable them to meet
hereafter the interest on loans made to the railroads.
1103 The State owns a substantial and valuable interest in
railroads, and that interest is one of the main bases of
the credit of the State."

GOVERNOR BROWNLOW'S MESSAGE.—EXTRA SESSION, 1868.

Of the thirty-two million dollars constituting our
State debt, fully three-fourths were incurred by the
State loaning her credit and issuing her bonds to the
different railroad companies of the State. *To secure*
1104 *the payment of these bonds* the State has a first mort-
gage upon all railroads so aided making her security
fully adequate; capitalists and dealers in stocks will,
understanding these facts, have no lack of confidence
in the ultimate redemption of Tennessee bonds.

Some of the railroad companies committed the great error of not making their payments in advance of the first of July. The Comptroller will inform you who they are. In the discharge of my duty I served the following notice upon them all:

EXECUTIVE OFFICE, 1105
Nashville, Tenn., May 24, 1868.

To the Railroads of the State of Tennessee:

It is made your duty by the law of 1852, and also by the Act entitled "An Act to liquidate the debt of the State falling due in 1868 and 1869," passed March 13, 1868, to pay the interest on the bonds loaned you at least fifteen days before said bonds become due.

The penalty for the failure of this duty is, that I am to appoint a suitable person at your expense to take 1106 charge of your road.

I therefore warn you that the interest due from you on the first July next must be paid to the Comptroller of the State at least fifteen days before that date.

W. G. BROWNLOW,
Governor of Tennessee.

GOV. BROWNLOW'S MESSAGE.

NOVEMBER 10th, 1868. 1107

The six railroads in the hands of receivers are indebted to the State on interest account, due July 1, 1868, one million one hundred and twenty thousand nine hundred and ninety-six dollars and eighty-six cents. The interest of these roads, as well as that of the State, require that they should be sold and the proceeds thereof be applied to the reduction of the State debt.

I would have seized the two other roads for failure to pay the July interest, and placed them in the hands 1108 of receivers, but that I had learned by experience that to do so would only entail increased burdens upon the State Treasury.

I recommend that no more appropriations be made to railroads except in those cases where the State has large interest in said roads, and would suffer heavy loss on account of the lack of such appropriations. Of this class are the roads running out, North and South, 1109 from Knoxville, and the one extending South from Morristown; and also the road of which Hon. Senator Parker is president. These roads, in order to become profitable and productive to the State, will require enough additional appropriations to enable them to complete their lines, so as to connect with other roads now in process of construction. I propose, however, to meet these demands in a way not to increase the liabilities of the State. The plan is this:

Leading gentlemen, connected with important rail-
1110 roads largely indebted to the State, are asking for authority to issue second mortgage bonds, with a view of exchanging them for State bonds, the debt now due by the State would, in like amount, be transferred to these railroad companies, and so the State would be relieved by a burden of several million of dollars of debt now resting upon it.

I regard this proposition with approval, and advise its adoption by the Assembly. The payment of large debts now due from the roads alluded to, and the sale
1111 of the roads already in the hands of receivers, would reduce the State liabilities at least one-third.

This plan, it is seen, would enable the General Assembly not only to reduce materially the State's liabilities, but also to render such necessary additional aid to the roads, whose completion is demanded by considerations of public economy.

Several of the railroad companies have unsettled accounts with the sinking fund. The State being indebted to them and they being indebted to the State, it is im-
1112 portant that an early settlement of these accounts be had. I recommend, therefore, that the proper action be had by your respective Houses, to procure the desired settlement with the said railroads.

Since the adjournment of your extraordinary session, the Comptroller has visited New York and made satisfactory arrangements for the payment of the July interest. This fact, together with the result of the late State and Presidential elections, has induced an ap-

preciation of our State bonds, and a material deprecia- 1113
tion on the price of gold.

The occasion serves to allude to the gratifying fact, that, financially and otherwise, Tennessee occupies a far more desirable position than any of the States recently in rebellion. Thus the policy of reconstruction maintained by the Union Republican party of Tennessee, finds ample and triumphant vindication by its achievements among us; and thus, also, the path of our future growing prosperity is traced for us by the history of
the last four years, we have only to follow up with 1114
steady nerve and unfaltering step, the policy thus far so successful, to assure to this great commonwealth that degree of thrift, wealth and power, to which our national position, our boundless resources and our enterprising population so eminently entitle us.

Report of G. W. BLACKBURN, *Comptroller* (*p.* 14) *to Extra Session of the* 35*th General Assembly in reply to Senate Resolution passed Aug.* 3, 1868. 1115

" Rejoicing in the belief that a better day was dawning on our State, I pursued my duties in this office undisturbed by a thought of approaching difficulties, until some time in the day of the 29th of June, when Mr. McCrary, of the First National Bank of Nashville, came into this office and told me he
had received a dispatch from New York stating 1116
that the rumor there was, that the railroad men, then in New York would be enjoined from paying the State money due on the State loan. I at once telegraphed to President Calhoun, telling him what I had heard and requested him to tell me if there was any truth in it. His answer received the same day was "That the railroad men had been enjoined, and the report was, that the funds of the State in his bank would be enjoined."

1117 SPECIAL REPORT OF COMPTROLLER BLACKBURN.

November 30, 1868.

Recurring to the following tables, it will be seen that the cardinal and all-important truth thereby elicited—a *truth* which may be regarded as the tutelary deity of the State, calling on the Legislature to interpose its power and authority in behalf of its injured wards— is this, That the policy of issuing bonds to railrods which have been taken out of the hands of the company and
1118 put into the hands of *Receivers*—that is, of the bonds, the roads and all their assets—and who have, for a longer or shorter period of time, so managed the roads, the bonds, and the assets, as to prevent the State from receiving one single dollar, can no longer be tolerated. This is the great change the financial interest of the State calls for. To the consideration of it, I most respectfully and earnestly call the attention of your Honorable Body.

Senate Journal, 1868-9.

1119

Mr. Speaker:—The Committee on Judiciary have had under consideration the House Bill No. 542, and have instructed me to recommend its rejection. The committee cannot see how the railroad companies are to be benefited by the arrangement proposed by the bill, except by some advantage to be gained at the expense of the State. The Comptroller is required to certify that bonds of the companies have been issued for the bonds of the State, cancelled, and certify these facts, not at
1120 his office here, but transact the same in New York by an agent in a distant city, and a person over whom the Legislature can have no control.

Again, the bill proposes that the State shall take coupons from the companies where they have failed to pay the interest what she may thus have advanced in cash for bonds loaned to said company. This is certainly a strange proposition; while the present policy of the State should continue the State issues her bonds,

the companies are to pay the interest on them, they fail 1121
to do so, and she pays it in money; they then can buy her bonds at sixty-five cents on the dollar, and reimburse her in her own paper, issued for their benefit; she, at this rate, paying some fifty per cent. to said company, or rather, they are making that out of the State in the transaction. This must surely greatly affect the credit and resources of the State. The committee, therefore, hopes the bill will be rejected.

All of which is respectfully submitted.

1122

WM. H. WISENER,
Chairman.

Saturday morning, January 30th, 1869.

HOUSE APPENDIX 1868-9.

REPORT.

1123

MR. SPEAKER:

The Judiciary Committtee, to whom was referred the various measures before the Senate, looking to a sale of the different railroads in Tennessee that have failed, or may hereafter fail, to meet the interest on the bonds issued and loaned to them, or their own bonds endorsed by the State, have had the same under consideratien, devoting as much time to their investigation as other duties would permit, and the great interests in- 1124
volved require.

It seems to be conceded by all, that something should be done; but, whilst all agree that some remedy should be applied to relieve the Treasury of the State from its present embarrassed condition, there is, as might have been expected, a great diversity of opinion as to the proper measures to be adopted to accomplish the object to be attained.

1125 First, as to the necessity. Whilst it is conceded
that some remedy should be applied, it may not be
known to every member of this body and to our Constituents
and Country, that there is such an imperative,
absolute and overruling necessity for the removal of
the evil, as the Committee believe to exist, and will now
proceed to show.

The State debt, including liabilities for railroads
and turnpikes was, according to the Comptroller's Report
of the 30th of November last $34,454,873.44. Add
1126 to this the amount borrowed to meet the January interest,
say $450,000, being in round numbers, half the
annual deficiency, and you have as your actual existing
debt, at the beginning of the present year, $34,891,873.44.
That it may be seen how enormous this is, as
compared with our resources, the Committee will submit
a few remarks.

According to the assessments for the year 1868, the
aggregate of taxable property of every kind was, in
round numbers, two hundred and eight millions of
1127 dollars. Upon the indebtedness would be sixteen and
seventy-seven hundredths per cent. on the amount thus
assessed.

By existing laws, bonds are authorized to be issued
to different railroads, to the amount of at least four
million three hundred and seventy-five thousand dollars
($4,375,000) making an aggregate of thirty-nine
million two hundred and sixty thousand eight hundred
and seventy-three dollars ; say in round numbers, forty
million dollars. This is equal to nineteen and twenty
1128 three hundredths per cent. on the taxable property of
the State. As this is the amount of the State debt, as
it actually exists, and authorized by law, the Committee
might, on this particular branch of the question involved,
cease their inquiries, but, as the condition of
the finances of the State is a matter of such vast importance,
as well to the tax payer, as to the public
creditor, they hope it will not be considered out of
place for them to extend their investigations a little

further, and see what may be the situation of affairs, should the various propositions now pending before the Legislature be passed into laws. The various propositions, without going into detail, at the time of preparing this report, amount to the sum of six million dollars, which, should they become laws, will swell your debt to forty-five or six millions. At forty-five millions the indebtedness would amount to twenty-one and sixty-three hundredths per cent. on the aggregate taxable property in the State.

At this rate of taxation, a farm worth one thousand dollars could only be sold by the owner for seven hundred and eighty-three dollars and seventy cents. It is only worth this latter sum to the owner, although its actual value was one thousand dollars. In other words the property of the people of the State was valued at two hundred and eight millions of dollars, at the last assessment, it, in fact, is only worth to the owners one hundred and sixty-three millions.

Suppose an emigrant of capital should come to Tennessee to buy land, and would call on some man, the owner of a farm worth ten thousand dollars, he would be willing to pay for it, owing to our enormous taxes, only seven thousand eight hundred and thirty-seven dollars. Can we go home and face our constituents with this state of things existing, without doing something to relieve them? Should we do so, it is doubted whether many of us would return again.

Again, as shown by your Committee, in a report on another proposition before the Senate, the annual deficiency in the receipts is now nine hundred thousand dollars, with the present rate of taxation and existing liabilities. This will continue to be the case, unless taxes be increased, or something be done to reduce the existing liabilities, and the deficiency will be annually increased by the amount of interest paid on such deficiency the preceding year. How long can this state of things exist? The deficiency has been met heretofore by semi-annual loans; except, perhaps, in one instance, by an application of near three hundred thousand dollars of what is called the School Fund. Will capitalists continue to lend us money to pay interest, when no adequate means are prepared to meet the demands on the Treasury? This is a grave question, and the Committee apprehend that men of means will cease to lend, and the coupons on your bonds must go to protest. Indeed, it cannot be expected that our credit can be kept up and demands on the Treasury met, unless a change in our financial policy be adopted. In a few years, the annual interest thereon, will amount, itself, to an enormous debt. In six years, including the last annual deficiency, the debt on this score alone would be increased five million six hundred thousand dollars.

These calculations are based on the actual indebtedness of the State; but add to this the bonds authorized by law, and not yet issued, and the finances will be enhanced by the addition of some five or six millions of principal, and an additional deficiency of interest of some three hundred and twenty-five thousand dollars, making the amount of a million and two hundred and twenty-five thousand dollars excess of demands on the Treasury over the receipts.

Should the different propositions before the Legislature become law, your debt will be forty-five millions, and the annual deficiency over a million and a half of dollars. The Committee hope the Senate will profit by these figures, and to make no more appropriations of bonds for the benefit of railroads or manufacturing companies.

Now, what is the remedy? The Committee will venture a few suggestions, some of which may not be strictly within the matters referred to them; but they are so intimately connected with them as to excuse the making of such suggestions.

And, first, the suggestion above is a very important one, and easily applied. That is, make no more appropriations of bonds; do not increase your debt. Our

bonds are now at a discount of some thirty-three and 1137
a third per cent. The State is now actually in need of
funds to meet her current expenses. Indeed, but for
the liberality of the banks who are her fiscal agents,
the members of the Legislature could not draw their
per diem.

Let her now go into the market to borrow money on
her bonds, and she can only realize, on her six per
cent. securities, sixty-six and two-third cents in the dol-
lar, costing her on a twenty years' debenture at the rate
of eleven and a half per cent.; and this because she has 1138
so extended her credit by lending it to others. She
will have to borrow money in a few days, or weeks, to
pay her ordinary expenses, to an amount of nearly a
million dollars ; and to do this, she must increase her
rate of interest, or issue a million and a half of dollars
in six per cent bonds.

To illustrate the condition of her finances, and the
erroneous, if not ruinous policy of her legislators, let
us apply the principle to the case of private citizens :

Suppose a man of large estate, and in good credit; 1139
he has needy friends who want money, and are unable
to borrow it, one from another. They call on their
wealthy neighbor, and he lends them his note to sell in
the market, and they do so at a discount of thirty-
three and one-third per cent., and are to pay the note,
interest and principal, at maturity. How long before
they would both become bankrupt? The novice in
finance could answer the question. But, suppose the
persons to whom the paper was lent should fail to pay,
and he should have to meet these obligations himself, 1140
and have to continue to do so until his own means
ceased, and he should have to borrow money to pay
them, would not any man say he should at once refuse
further loans of his credit? Of course, all would say
he should. Yet this Legislature, with just such a case
before them—the State of Tennessee being in precisely
the condition supposed—is importuned by these fail-
ing companies and new enterprises, to further extend

1141 her credit to the amount of millions. The Committee
hope no such thing will be done, but all such applica-
tions will be rejected. If we reject every application
of the kind—every proposition, however specious, and
by whomsoever made—some good will have resulted.

Further, repeal all laws authorizing the issuance of
bonds to any railroad Company, where it can be done,
as the committee believe such cases are within the leg-
islative competency, and thereby many millions may
be saved to the Treasury and the people.

1142 Having done this, the Legislature has only begun its
work. These recommendations, if adopted and carried
out, only prevent the increase of the State debt, by the
repeal of the law for the issuance of bonds for new ob-
jects of expenditure. But something more must be
done to reduce the present expenditures to the amount
of the receipts into the Treasury. If this be not done,
our State debt will be annually increasing by the ex-
cess of expenditures over the income. This can only
be done by a sale of the roads of companies who failed
1143 to pay the interest on these bonds. This is absolutely
necessary in the opinion of the majority, if not of all the
committee, as the best means of reducing the demands
to the receipts into the Treasury. But how is this to
be effected, and upon what terms are they to be sold,
whether for what the roads may be worth, or will bring
in the market, or for what they may owe the State, or
for the amount for which the State may have a mort-
gage?

The Committee are of the opinion, for reasons here-
1144 inafter shown, that they should be sold for whatever
they will bring, under the proceedings herein provided
for, if near their reasonable value. In the first place,
they can probably only be sold after going into the
hands of a Receiver, and a failure under his manage-
ment to pay expenses of running the road, and the in-
terest on the bonds issued to such Company. In this
view of the Case, it is the interest of the State to en-
force the mortgage, and thereby be relieved from pay-

ing the expenses of running the road, or rather the difference between the receipts and actual outlays in the management of the affairs of the Company, by the Receiver. This much the State saves by the sale, and in addition, whatever the road may bring. 1145

To illustrate the view of the Committee, they will take the case of the Nashville and Northwestern Road. By the management of this road under a Receiver, it fails to make enough to pay repairs and expenses of running. By a sale this item is saved. But the State has advanced to that Company four million one hundred thousand dollars. 1146 Suppose we sell the road, the rolling stock and other property of the Company, for ten thousand dollars per mile, you save the expense of running the road, and reduce the amount of State debt at the rate of ten thousand dollars per mile. You have reduced the principal, and of course the annual interest on the same, to the extent of what the road sold for. To appreciate this, we must bear in mind the fact that the Company did not pay its interest before it went into the hands of a Receiver, and has not 1147 since and probably never will, and that the road is constantly diminishing in value.

It is better therefore, in the opinion of the Committee that such roads sell for what they may bring, than for the State to buy them in, at what her claim is, or to run the same as her own. If she run it in the hands of a Receiver, the Committee have shown it to be a constant drain on the Treasury, and if purchased by the State the same drain will continue, and the interest on the bonds be the same as before the sale, whilst the 1148 road, by wear and tear, will constantly grow less valuable, for the iron on the railroads has to be replaced every eight years. The Committee have gone somewhat into detail on this point, as the Bill from the House of Representatives, providing for a sale of railroads, contains such provisions.

In further illustration of the impolicy of buying railroads by the State, until a more convenient season to sell, let us suppose a case: A farmer has purchased a fine animal at $5000. The animal not only is not worth what he costs, and is constantly diminishing in value, but is a constant drain on the income of his owner. What would any considerate man say should be done in such a case? The answer would be, sell at any price before the animal becomes worthless, and at least save the expense of his keep. But what would be thought of the owner, if he should, when the animal should be offered for sale, propose to purchase, and actually buy him at the original cost, or even at any price, that he might keep him for further use, or to sell at a more propitious time? Surely every one would pronounce the policy ruinous as a financial question, if not that the owner was actually insane. But this is in strict analogy to the proposed policy of buying the railroad at the amount they owe the State, or for which the State may be liable for such railroad Company.

Again, some of the bills referred to the Committee, contain a provision or stipulation, that the purchaser must continue to run the road. If this proposition be engrafted into the bill that may become a law, it will defeat the sale entirely, unless the State should become the purchaser, for no prudent capitalist, indeed no sane man, would buy a road at any price to operate it when it could not pay expenses.

But this would ultimately avoid a final sale, as will be shown in a subsequent part of this report; for, sooner or later, unless the legislative policy in regard to these questions change, the mortgage will be foreclosed in a tribunal where the roads must go to him who will give the most for them, with the right to run or not, as he chooses. So that it is the true policy to sell the roads as soon as possible, for whatever they may bring.

The Committee are of the opinion, and the bill reported by them is in accordance with such opinion, that the sale should be made under a decree of a Chancery Court by suit, in the name of the State against

the railroad company, making proper and necessary 1153
parties, so that the purchaser would be sure of getting a good and valid title, and the property bring the best price, with payments of a sufficiency in cash, to meet fees, costs and expenses, and the residue in bonds of the State, or for what may be coming to her, and upon such terms as the Court might deem best for the interests of all the parties concerned.

The Committee deem it best to leave all questions of lien and priority of satisfaction out of the proceeds to the Court, to adjudge and determine accord- 1154
ing to the law applicable to each particular case. If the Legislature should declare any priority, or that any class of persons should be first paid out of the proceeds, the Court might disregard it as being in violation of some vested right. If the parties to whom a preference should be given, did not have it before, our legislation could not confer it on them, and if they already possessed it, the enactment would be unnecessary; and hence, the bill reported leaves all these questions to the Court, where they properly belong. 1155
And, however much they might desire to provide for certain classes, many of them, in needy circumstances, they do not believe they have the power.

It may be argued, that if sales take place as proposed, that the road will be bought up by large capitalists, or wealthy companies, and become monopolies. This may be so; but the railroad system throughout the United States is a monopoly, and the only effectual check that can be found against it is our great rivers, and the magnificent steamers that majestically 1156
float upon their waters. These mighty rivers are natural highways, and whenever railroads become so exacting in their charges for freight or passengers, the public will travel on these great arteries, as they did before railroads came into use. But if the check suggested be not effectual, or does not exist, how can you prevent the monopoly? For it is only a question of time, and all the non-paying railroads will be swal-

1157 lowed up, whether purchased and owned by the State or not. If bought by the State, she cannot hold them long, for in her hands, with her debt not only not diminishing, but increasing, they must sooner or later go to pay her obligations to whomsoever will buy them, and at such price as they may see proper to give.

The Committee have said that they must go at some time or other, unless the policy of the State, or rather of her legislators, is changed.

1158 Now for the facts and law establishing this proposition. Repudiation, if resorted to, cannot save them. Suppose the State should buy them at the sales under the decrees. They are then the property of the State, and she may not be willing to sell them. Concede she will not. The Committee have shown her enormous indebtedness, and that it is constantly and rapidly increasing. It is admitted that a sovereignty can be sued only and in the manner in which she may consent to be brought before the Courts. The Constitution of the 1159 State of Tennessee provides that she may be sued in such manner as the Legislature may prescribe. This was giving her consent, should the Legislature, in its wisdom, prescribe the manner of doing so. The Legislature did at one time, by law so prescribe, but a subsequent Legislature repeated the Statute thereby withdrawing her consent. And hence, she cannot be sued in her own Courts. Neither can she, since the adoption of the eleventh amendment of the Constitution of the United States, be sued in the Federal Courts by 1160 citizens of another State, or citizens or subjects of a foreign government. But she can be sued in the Supreme Court of the United States by another State. Most of her bonds are held by citizens of New York. Now, suppose, by her policy she becomes so involved as not to be able to pay her bonds, interest or principal; all the citizen of New York has to do is to get the Legislature of his State to intervene and take up the bonds, and then the State of New York, as it will be her duty to do for her people, can bring suit and recover judgment in the Supreme Court of the United States. Upon such judgment she can have her execution, and sell the railroads of the State, and any other property she may own; and if there be not a sufficiency, the Legislature might be compelled to levy a tax sufficient to pay the residue. This is a strong case, but it is not beyond the range of probability, if the course of events do not change.

Let us take another view of these questions: Suppose, to avoid suits against the State in the Federal Courts, when your indebtedness runs up to the amount indicated, you levy a tax to meet the demands on the Treasury, it will be so high that few people can pay it, and the citizens who have been living in fancied security along your railroads, or in more remote parts, will have their lands sold to meet these ruinous exactions. Then wealthy capitalists, of whom we fear so much, will come in and buy the homes of these people, and their firesides will be gone, for they will not be able to redeem them.

But, suppose this Legislature, as the Committee hope they will, should adopt the retrenchments suggested, and agree to pass a bill to sell the railroads belonging to companies who have failed to pay their interest, then the grave constitutional question comes up, have we the power, under the law existing at the time these companies were chartered, or according to the provisions of these Acts of incorporation, to force a sale; or rather should we pass a law, would it be constitutional; and could the Court decree a sale before the maturity of the bonds.

It is conceded that the Code provides that, "if the Company fail to pay any of the bonds at maturity, the Governor shall notify the Attorney General of the District in which said company has its place of business, who shall immediately file a bill in the Chancery Court to enforce the lien of the State." This is substantially, if not literally, the provisions of the Act of

1165 1852, brought forward in the Code, and may be considered, therefore, as a part of the charter of each railroad Company that has received the bonds of the State. There is no other statutory provision authorizing a sale by decree to enforce the lien, or to foreclose the mortgage for non-payment of interest. But this does not expressly negative the power for sufficient cause, to foreclose the mortgage before the bonds should fall due.

Again, the provision of the Code is, that, "upon
1166 failure" to comply with the requirements of the preceding Section, (that is, to pay the interest,) "the Comptroller shall report the fact to the Governor, who shall forthwith appoint a suitable person, at the expense of the Company, to take possession and control of the road," and "manage the same, and receive the rents, issues and profits," and apply the same, after paying expenses of running the road, to the payment of interest due on the bonds of the State, issued and loaned to the Company, and so soon as this is done,
1167 he shall give up the road to such company.

Now, under these provisions, what are the vested rights of the companies and what are those of the State. It is conceded that there may be no authority or that it is doubtful whether there is any power before the maturity of ths bonds and the failure to make the interest by the Receiver, other questions aside, to foreclose the mortgage by Bill, without the consent of the companies or their stockholders.

But there is another principle of law administered in
1168 Courts of equity, by proceedings *quia timet*, which in the opinion of the Committee authorizes the filing of a bill to seize the property and have it sold to pay the debt.

If this were not so, the condition of the State would be embarrassing indeed. She would not only be compelled to pay the semi-annual interest as it fell due, and the bonds at maturity, without any hope of reimbursement, but would be bound to run and keep up the

road at her own cost and expense, which would make 1169
her debt before she could do anything to relieve herself probably amount to two-thirds of all the taxable property in the State. Such results are fearful to contemplate. But the law is well settled that when a creditor has such mortgage, and the debt increasing, and the security by its use constantly diminishing in value, so as soon to be worthless, that Courts of Chancery will interpose, and upon principles of *quia timet*, it being to the interest of both parties, as it
must be in these railroad cases, to sell the property and 1170
pay the debt in whole or in part, according to the nature of the security. Upon this view, therefore, of the law, the Committee are of the opinion that the State is entitled, when a proper case arises, to have the roads sold to indemnify her against her liability for such Companies.

The opinion of the Committee, however, is, that the right may not accrue until Receivers are appointed, and have a reasonable time to "manage" the roads and
pay the interest, if it can be done; and if not then paid, 1171
the State can successfully go into a Court of Chancery for relief.

The Committee hereto append a statement of the condition of some of the principal railroad companies, by which it will be seen that some eight companies have received largely over what the roads actually cost. This appears from the latest reports from the Comptroller's office, and may or may not be strictly correct.

The Committee again, and in conclusion, would say,
that whatever sales may be made, to that extent, relieve 1172
the people and reduces the amount of the public debt, which is, indeed, a mortgage upon the lands within the limits of the State, and therefore, hope the Bill reported by them will become a law.

The Committee have probably traveled out of the strict line of duty imposed on them, in discussing so fully the financial condition of the State; but they find an excuse for it in the magnitude and importance

1173 of the questions involved, and the deep interest their constituents have in the proper solution of the problems discussed.

The Committee may not be unanimous in their opinions touching all the matters discussed, but are so in the results arrived at.

All of which is respectfully submitted.

WILLIAM H. WISENER, Sr.,
Chairman.

February 6th, 1869.

1174

Page 49, Report of G. W. Blackburn, Comptroller, Oct. 6, 1869:

"The cause of this deficit on the part of the railroads, was the inability of some of the roads, (that are unfinished) longer *to pay*, and the refusal of others to
1175 pay (that were abundantly able to do so) unless the State would receive from them in payment of their indebtedness, past due coupons which they had purchased at a reduced price for that special purpose—as I have been credibly informed, and verily believe. The Memphis and Charleston Railroad Company (due the State on interest account) $55,931.62, proposed to pay its dues to the State—as above—to the fiscal agency of the State in New York, on the 30th of June last; provided a portion of it, nearly half the sum, would be received
1176 in coupons.

Learning in June last that certain Railroad Companies had agreed among themselves *not* to pay their July interest—thus making it impossible for the State to meet its liabilities—and afterwards, when our securities had depreciated, to buy up the coupons, and present them in payment of their July interest, I instructed our agency in New York not to receive coupons from any road. The proposition of the Memphis and

Charleston Railroad Company therefore was rejected 1177
and the $55,931.62 remains unpaid.

The Mississippi Central and Tennessee Railroad Company has also failed to pay, notwithstanding the fact that its president was fully advised of the necessities of the State Treasury, and notwithstanding the ability of the Company to pay).

The case of these two roads is especially spoken of here in my report for the purpose of calling the attention of the Legislature to the necessity of instituting measures to effectually checkmate the designs of Rail- 1178
road Companies which—dead to every principle of gratitude to the State that has warmed them into life—use every means within their reach to sink her in temporary bankruptcy for purposes of selfish speculation. These roads certainly ought at once to be put into the hands of Receivers, and run in the interest of the State till the last farthing is paid.

--- 1179

GOV. SENTER'S MESSAGE, OCTOBER 13, 1869, p. 16.

House Appendix, 1869–70.

This view is taken without even a consideration of the ample security the State has against her liabilities in the railroads in aid of which they have been almost entirely created. In this connection I deem it proper to refer to the Act of the Legislature, passed December 1180
7, 1867, making additional appropriations to railroads, and by its conditions conferring on the Governor, Secretary of State and the Comptroller, power at their discretion to sell the roads accepting aid upon their failure for two consecutive years to pay the interest on their respective appropriations. Several, if not all of the roads provided for have accepted the aid with the conditions, and I am advised the State can sell such as have so done and failed in their interest payments for

1181 two years which now soon expire. If the railroads pay the interest the State can instantly discharge all overdue interest on her liability and have left a large amount in her Treasury; if they fail to pay, then the example of Pennsylvania and more recently Missouri under similar circumstances, with its highly favorable results, is strongly inviting to a similar course on our part. With thirty-four millions, more than nine-tenths of the State's liability, secured by first lien on our several railroads and their equipments
1182 and appurtenances of every description, the sale of either one of them and retirement of bonds which might be taken in payment, would instantly command for the credit of the State the high position which its large resources and the integrity of its population entitle it.

Senate Journal, 1868–9.

1183 House Bill 542, entitled "An Act to liquidate the State debt contracted in aid of railroads." (See p. 168).

House Bill 542 taken up on its first reading and passed.

P. 184.—Passed its second reading and referred to Judiciary Committee.

P. 275.—House Bill No. 275 taken up on third reading,
1184 the following amendment offered by Mr. Alridge to the bill and referred to the Judiciary Committee was adopted, to wit:

Be it further enacted, That any person or persons may with the consent and approbation of any railroad company which is indebted to the State for which the State of Tennessee may have a lien pay the said debt so far as the State is concerned in bonds of this State or any matured coupon bonds at par; and the person or

persons so paying the debt of any railroad company with 1185
the consent of such railroad company shall upon filing
with the Treasurer of this State the written assent of
said railroad company under the corporate seal of such
railroad company, be entitled to have and hold all the
lien or liens which the State of Tennessee has or have
upon said railroad company or its property, and shall
have the same right to enforce the same which the State
of Tennessee had, the object and intent being to place
the person or persons so paying with the consent of said
railroad company in the same position and with the 1186
same rights which the State of Tennessee had previous to
and before said payment and with full power to enforce
the same.

Be it further enacted, That any person or persons
who may with the consent and approbation of any railroad company pay any part or portion of the indebtedness of said company as provided in section shall hold
and be subrogated in all the rights, privileges and lien
or liens of the State to the extent of in proportion to 1187
the amount of such indebtedness with the same rights
and privileges the State now has to the extent of such
payment or payments.

Mr. Cate offered the following amendment, to wit:

Provided the passage of this Act shall not decrease
the lien of the State upon any railroad of the State
until the entire claim of the State is fully liquidated
or affect the interest of present bondholders of the
State. 1188

Adopted.

Mr. Senter offered the following amendment, to wit:

Provided that the railroad companies which have
issued second mortgage bonds availing themselves of
the provision of this act, shall file with the Comptroller
the bonds of the same series as those loaned to such
company for which the State holds a first mortgage

1189 lien, provided the bonds to be issued by the company under the provisions of this act shall not have a longer time to run than the bonds of the State thus certified and cancelled.

Adopted.

The following is the amendment proposed by the Judiciary Committee:

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee that the 1190 respective railroad companies may relieve themselves from liability to the State to the extent of the bonds hereinafter authorized to be taken up by producing to the Governor, Comptroller, Secretary of State and Treasurer for cancellation and destruction the bonds of the State issued to such company, and which are a lien upon the road-bed and property of such company with the unpaid coupons attached, and when the whole amount of bonds thus issued to such company shall have been thus produced 1191 and cancelled or destroyed and any lien the State may have for interest paid by her for such company shall have been paid, said railroad company may issue its own bonds to that amount in such manner and time as they may see proper, and so far as the State is concerned may be and are hereby declared to be a lien on the road-bed and other property as fully and completely as the State now has and can convey or transfer to such company or its bondholders.

1192 SECTION 2. Be it further enacted that if any company in this State shall produce any amount of the bonds of this State issued to such company and which are a lien upon the property of said railroad company with coupons attached to the Governor, Comptroller, Secretary of State and Treasurer, the same may be cancelled and destroyed, the company may issue its own bonds for a like amount payable at such time and in such manner as the bonds of the State issued to said company and produced by it for cancellation, and the bonds thus issued 1193 shall so far as the State is concerned be a lien upon the property of said company as such bonds thus taken up and cancelled were.

Section 3. Be it further enacted, that nothing herein contained shall be considered to weaken or in any manner destroy the lien or mortgage the State has upon the property of said railroad company, and by accepting the provisions of this Act the company agree to the same. 1194

Section 4. Be it further enacted, that the State hereby reserves a superior lien to any given in the second section of this Act for any payment of interest she may have paid for any companies applying for the benefits of said section.

Section 5. Be it further enacted that any bonds issued under the second section of this Act shall not have the effect therein provided unless it is certified on said 1195 bonds by the Comptroller and countersigned by the Secretary of State with the seal of the State attached and attested by the Governor, and if this be not done, the said bonds thus issued shall be of no force and validity against the State or any lien it may have upon the property of such railroad company nor against the holders of the bonds of the State having a lien on the property of said company.

Section 6. Be it further enacted that any railroad companies of this State may consolidate by the consent 1196 of the stockholders of the respective companies and assume the name of either company; from and after their consolidation they may continue their corporate existence with all the rights, privileges and exemptions and be subject to all liability, restrictions and obligations of the company whose name they assume, but when they are thus consolidated and assume the new name no further State bonds shall issue to such companies by

1197 way of lien or otherwise, unless afterwards authorized by express legislation for that purpose.

Amendment was adopted; ayes 10, nays 9.

Mr. Alridge moved to lay the bill on the table; ayes 6, noes 14. The bill then passed third reading, ayes 13, noes 7.

P. 299. Special order of the day as signed bill No. 419, and all other bills on the same subject was taken up.
1198 Mr. Gardiner offered the following amendment, to wit:

Provided, that the Comptroller shall appear at said sale and bid the amounts which the State holds in said road or roads thus sold.

Mr. McCall moved to lay bill on the table ; ayes noes 8.

Mr. Weisner moved to amend by inserting that the Court may fix a minimum price at which said roads
1199 may be sold.

Carried.

Mr. Cate offered the following amendment:

Provided that no railroad in the State shall be sold for a less consideration than the amount due the State by said railroad company.

Adopted; ayes 10, noes 9.

Mr. Parker offered the following amendment:

1200 That the Court may decree that the bonds of the State of Tennessee now issued may be taken at par in payment of the purchase price of said road or roads.

Lost; ayes, 4; noes, 14.

The bill was then rejected. Affirmative, 29; negative, 12.

Mr. Fuson entered a motion to reconsider the vote rejecting House bill No. 542.

P. 233. On motion of Mr. Matthews, the motion 1201
entered to reconsider the vote rejecting House bill No. 542 on third reading was taken up; the vote was reconsidered and the bill taken up.

P. 236. House bill No. 542 was taken up, and Mr. Alridge offered an amendment, which was referred with the bill to the Judiciary Committee.

P. 291. Mr. Alridge moved to take up the motion entered to reconsider the vote passing House bill No.
542 on third reading. 1202

Carried; ayes, 9; noes, 8.

The vote passing the bill was then reconsidered. Ayes, 11; noes, 6.

P. 303. House bill No. 542 was taken up on its third reading.

Mr. Alridge moved to reconsider the vote adopting the amendment offered by the Judiciary Committee. Carried.

The amendment was then rejected. Ayes, 4; noes, 1203
14.

The bill then passed third reading. Ayes, 14; noes, 5.

The bill was then ordered to be returned to the House of Representatives.

P. 328. Message from the House transmitting House bill No. 542 for signature.

1204

THURSDAY, JANUARY 20, 1870.

REPORT OF COMMITTEE ON INTERNAL IMPROVEMENTS.

MR. SPEAKER:

The Committee on Internal Improvements, to whom was referred House Bill No. 153, have had the same un-

1205 der consideration, and a majority of said Committee have instructed me to return the same to the Senate, with a recommendation that it be rejected.

The propositions of the bill, in brief, are to enable the railroads of the State to pay their respective interest dues to the State in any over due coupons of her bonds, and to discharge their liabilities to the State by paying in any bonds of the State, without regard to the series of issue.

To do these things, would materially change the contract between the State and railroads, perhaps, some- 1206 what to the advantage of a portion of the roads, and the disadvantage of others; but we certainly think without benefit to the State, and possibly to its serious embarrassment and injury.

First, to pay the interest in coupons, would be to compel the State's acceptance of a depreciated security in lieu of money; and apart from this disadvantage it is difficult for us to see the justice of the State's permitting large corporations built up by her generous fa- 1207 vor in the past to thus discharge their liabilities; while nothing but money is accepted from her citizens, merchants, mechanics, farmers and all other classes, for their taxes and other State dues. Certainly this is departure from the safe rule of legislation "for the many, as against the few, and for the weak as against the strong."

It is not 'pretended that the privilege of paying in coupons will enable a single non-paying road to discharge its interest account in coupons, but it is only 1208 proposed to allow roads which have the ability to pay in money to discharge their just dues in what is worth less than money. Certainly this is discrimination in favor of railroad corporations and against the great body of her citizens, without reason, contrary to justice, and only to the disadvantage of the State in its revenues. Such we cannot commend as judicious liberality; but must rather consider as most unwise

improvidence, since all deficit in necessary revenues 1209
must be supplied from the body of her people, or at expense of the State's honor.

With respect to the proposition to enable the roads to discharge their liabilities to the State, in principal, by paying in any outstanding bonds of the State, without regard to the series of issues, it may be remarked, that this gives the ability to the roads to retire bonds remotest from maturity, leaving the State at probably great inconvenience and sacrifice to provide for those
earliest maturing; and this palpable advantage to the 1210
roads is proposed without the least equivalent to the State in return for it.

But it is claimed and urged by the friends of the bill, that under its provisions a large portion of the State's outstanding bonds will be certainly retired and the State credit be so appreciated. But does this claim bear the test of reason? It certainly is not pretended that any of the non-interest paying roads will be enabled to retire bonds in discharge of their princi-
pal debt, and it is palpable that the bonds loaned to 1211
interest paying roads are no embarrassment to the State, since she is amply secured and indemnified against loss upon such. Then the entire embarrassment of the State credit is on account of non-paying roads, and in no degree on account of those which would be able to retire bonds; this simple yet incontrovertible statement establishes perfectly the fallacy of all claim of advantage to the State.

Finally the bill, while it affords the privilege to the
railroads of disharging their liabilities to the State in 1212
any of her outstanding bonds, provides no compulsion on them to do so. There is not even a provision as to a limit of time in this respect. Is it, then, certain that the solvent roads, or any of them, will under the provisions of the bill, retire and so diminish the amount of outstanding bonds. Of this we have no assurance, and the reasons for fearing a contrary result are not a few.

1213 It is a truth, old as humanity, that men em-
powered so to do will promote their own interests
without respect to the interests or even rights of
others; and both reason and experience have taught
that soulless corporations are fully prone to abuse
such powers as are individual men, while they are
more dangerous on account of the increased capacity
for mischief afforded by combination and superior
wealth.

With the great powers of mischief possessed by these
1214 railroad corporations, can there, then, be temptation
in their interests to do else than retire the State bonds
in settlement of their indebtedness? Let this proposi-
tion be examined. The railroads able to retire any of
our bonds are few in number, and hence combination
would be forced among them for any action tending
to their advantage. Suppose, then, this bill were an
enacted law. These railroads might easily give out the
purpose of purchasing an adequate amount of the
State's bonds to cancel their debts to the State; this
1215 naturally would stimulate an advance in their price.
Now the whole cause of the advance being entirely and
exclusively under the control of such roads, they
might elect to sell bonds on the advance, and then after
so doing to the extent of their wishes, by concerted
action, withdraw all propositions to purchase. This
action by the inflexible laws applying to demand and
supply, would lower the prices of the bonds they had
sold: and they could then buy at a profit equal to the
difference between the stimulated price they had sold
1216 at, and the depressed price they bought at. These
operations known among bond speculators as long and
short transactions, being made to the pecuniary profit
of the Railroad Companies, might influence them to
desire to keep outstanding our public securities rather
than to retire them, since their cancellation would only
diminish and curtail their field of operations. Is it
urged by some ardent supporters of the bill that our
Railroad Companies would never consent to causes so

contrary to the public interest and credit—it may be 1217
replied, that the prayer most perfect in wisdom asks protection from "temptation" before "deliverance" from evil.

To transfer such absolute control over the all-important subject of our public debt, from the representatives of the public to Railroad Companies, irresponsible to the public, we are convinced would not only be inopportune just at the time when our whole people have attained the rights of representation, but be stigmatized
by them as more than unwise on the part of their 1218
Representatives. We conceive it a duty to protect the State against any power to abuse her and not to improvidently subject her to the mercy, or leave her dependent, in any important interest, upon the good will of her railroad companies. To do so would be violence to all wisdom in subjecting the creator to its creature.

With the unlimited control over our bonded debt afforded our railroads by this bill, not only may the
public credit be scandalized by the improper speculation 1119
in our securities, but should the necessities even of the State ever require her to raise money for any purpose, the price paid for her bonds, if offered, could be dictated by the Railroad Companies it is proposed to arm with such dangerous powers.

All of which is respectfully submitted,

COOPER, of Davidson,
Chairman.

1220

House Journal, 1869-70.

Page 149. Mr. Smith introduced House bill No. 227, to be entitled An Act to sell delinquent railroads and for other purposes, which passed its first reading.

1221 Page 184. House bill No. 265, to be entitled An Act to protect the interests of the State by the sale of certain railroads and their property, which passed its first reading and was referred to the Judiciary Committee and 300 copies ordered to be printed.

P. 245. Evening Session, Thursday, November 25, 1869, Mr. Fleming, Chairman of the Judiciary Committee, returned House bill No. 265 with the following report :

1222 Mr. Speaker, the Committee on Judiciary have had under consideration House bill No. 265, to be entitled An Act to protect the interest of the State by the sale of certain railroads and their property, and have directed me to report it back with the amendments as follows :

First.—Amend the first section in tenth line printed
copy by inserting after the word "thereto" the words
"said railroad company by the service of process on
the president thereof or on other person or persons as
1223 were provided by sections 2,831, 2,832 of the Code of
Tennessee in any suits against corporations."

Second.—Amend Section 4, by striking all out after
the word "State" in the third line and insert
"the parties defendants to the bills of any such com-
panies shall file their answers within twenty days after
serving process on the companies, and shall stand for
hearing at the first term of the Court after the filing of
the bill, provided it be filed twenty days before the
first day of the term, whether the same be a special or
1224 regular term, and the said causes shall take precedence
on the docket of the Court over all other causes. The
sale herein provided shall be made upon the following
terms and conditions, namely, one-fourth of the pur-
chase money to be paid in hand or within twenty days
after the sale, the remainder to be paid in semi-annual
instalments of twelve and half per cent. of the whole
sum, the purchaser giving bond with good personal
security for the full payment of the purchase money.

with interest thereon from the day of sale, and the 1225
State retaining its lien upon the road, until the whole
of the purchase money and interest thereon is paid."

Third.—Amend section 7 by striking out the word "thirty" in the second line and insert the word "ninety."

Fourth.—Add the following two sections to the bill.

SECTION 10. That should either of said companies
against which proceeding in Court shall have been in- 1226
stituted on or before the final decree or sale in the cause
pay to the State through its proper officer three-quar-
ters of the amount of said indebtedness in any of the
bonds of the State whether due or not, and if not due,
then with the coupons that are not due attached there-
to, such payment shall be deemed and taken as a final
settlement and payment of such indebtedness, and
upon the payment of the costs by the company, the
said Court shall have authority and power to render a
decree declaring the payment and satisfaction of said 1227
indebtedness and the discharge of the lien of the State
of Tennessee, provided that this section of the bill ap-
ply only to those railroad companies that have received
bonds of the State as aforesaid under said acts, and
have failed, and now fail to pay interest due by them
that became due and payable on or before the first day
of January, 1869, and to no other companies.

SECTION 11. That it shall be lawful for the railroad
companies that are excluded from the provision and 1228
benefit of the tenth section of this act by the proviso
thereto, to pay their entire indebtedness to the State
created by the issuance of bonds to them as aforesaid,
with any of the bonds of the State at par, whether due
or not, but if not due the coupons not due must be at-
tached or included, provided that if any of said com-
panies pay the said indebtedness with the particular
bonds issued to such company they shall be cancelled
and the lien of the State be deemed discharged, but

1229 should such payment be made partly with the bonds issued to it, or partly or wholly with bonds issued to another company, the company's first named bonds shall be cancelled, but all the other named bonds shall be preserved by the State, and the lien of the State created by their issuance shall remain in full force.

Make section 10 of the bill section 12 of the same. The bill being thus amended, the committee recommended its passage.

1230

House Journal, 1869-70.

(On p. 162. House bill No. 153 was taken up, passed to its second reading, and was referred to the Judiciary Committee.)

Page 326. House bill No. 153 and the amendment of the Committee adopted.

Mr. Fleming offered the following amendment:

1231 Be it further enacted, That when any company under the provisions of this Act shall pay into the Treasury of the State bonds which have been issued by the State to said company, the said bonds shall be cancelled, but should any company in discharge of its own debt pay into the treasury any bonds that were issued to other companies that may still be indebted to the State, such bonds so paid in shall not be cancelled, but shall be held by the State as purchased bonds, retaining a lien for the State upon the road to which such bonds were
1232 originally issued until the debt of said road to the State shall be fully discharged. Adopted.

The bill as amended then passed its third reading. Its immediate transmission to the Senate was then ordered.

On motion of Mr. Speaker Perkins, striking out the word "principal" in House bill No. 153 was reconsidered. Mr. Ray offered the following amendment:

Provided, That when said railroad company owes interest already due coupons past due shall be taken by the Comptroller or Treasurer in discharge of said interest. Adopted. 1233

House Journal, 1869–70.

Page 323. Mr. Speaker, your Committee on Internal Improvements have had under consideration House bill No. 227, to sell delinquent railroads and for other purposes.

House bill No. 265, entitled an Act to protect the interest of the State by the sale of certain railroads and their property. 1234

Also House bill No. 305, to enable the delinquent railroads to reduce the liability of the State by paying their indebtedness in bonds of the State, and after mature deliberation, recommend the adoption of House bill No. 305 in lieu of all others, with the following amendments, to wit, strike out the word "six" and insert "four" in the 7th line.

And strike out in the first section of it the 15th line and all of the 16th line printed bill, and insert the words "of its total indebtedness to the State at the time specified for the delivery of said bonds as hereinafter provided." 1235

Also strike out the words "three million dollars" in the 22d line printed bill, and insert the words "three-quarters of its indebtedness to the State at the time specified for the delivery of said bonds as hereinafter provided."

Also strike out the word "three" in the 32d line of printed bill and insert the word "five." 1236

Also strike out the figure "3" in the 22d line and insert the figure "5."

Also strike out the word "Manchester" in the 33d line and insert the word "Winchester."

Also strike out the word "five" in 35th line, printed bill, and insert the word "six."

Also strike out the figure "5" in 35th line and insert the figure "6."

1237 Also strike out all of the 58th line, printed bill, after the word "of" and insert the words "its indebtedness to the State at the time specified for the delivery of said bonds as hereinafter provided."

Also strike out the words "thirty days" in the second line of printed bill and insert the word "four months."

Also add the following proviso: Section 2. And provided further, that in the event any of said railroads shall fail or refuse to accept and comply with the terms 1238 of this act, then, in that event, the Governor of the State may receive from any person or persons or corporations bonds of the State, and the persons paying the same shall be substituted to the lien of the State for the amounts of the bonds issued to said railroad company or companies so as to give the said person or persons or companies all priority of lien which the State has and shall have, all the rights, powers, and privileges the State may have under existing laws," and with the foregoing amendments unanimously re- 1239 commend the passage of the bill in lieu of all others.

Page 493. Message from the Senate.

I am directed to return House bill No. 153 to prodvie for the payment of the public debt. January 21, 1870.

P. 799. Your Committee have had under consideration House bill No. 611 for the benefit of laborers of the Nashville and Northwestern Railroad. This bill 1240 seeks to make the State responsible for all the debts contracted in the way of expenses of the Company of said road while in possession of the State receiver or receivers.

This involves a very grave and momentous judicial question, in the consideration of which your Committee has been greatly embarrassed.

The office of Railroad Receiver is a statutory one, and one almost peculiar to our own State, there being but

one other State in the Union known to the Committee 1241
where a similar office exists—Pennsylvania.

Your Committee know of no analogous office, except
that of a receiver in Court. This question has never
been adjudicated by the Supreme Court of Tennessee,
it having been but once before that Court, in the case
of *Bristol*, *Skidmore* versus *Memphis*, *Clarksville and
Louisville Railroad*, which cause was dismissed in
said Court upon a preliminary question, and no opinion
was given by said Court upon this grave subject,
but intimations were given in the argument of said 1242
cause against the liability of the State for such claims.

Your committee are informed that the Supreme Court
of Pennsylvania has decided this question against the
liability of said State, but as your committee have
not had an opportunity to examine the opinion of said
Court, they are not able to present the authorities upon
this question.

With this limited amount of information, and these
few precedents, your committee are constrained to rely
mainly on a proper construction of the Statutes of the 1243
State upon this subject, being the Internal Improvement
Act of 1852, embodied in the Code from Section
1091 to 1223 inclusive, and the various Internal Improvement
Acts amendatory thereof passed subsequently
to the adoption of the Code. By said Internal
Improvement Acts, and from various provisions of the
acts amendatory thereof, it appears that the entire interest
of the State in any of the railroads to which she
has issued her bonds is only that of a surety, and hence
only secondary liability is thereby incurred, to wit, to 1244
become responsible for the interest upon the bonds as
it falls due, and also for the bond at its maturity in
the event the company should fail to meet and discharge
the same. To secure the State in this suretyship
she has a statutory lien or mortgage upon the
whole road, superstructure, equipments and stock, and
upon all the other property owned by the company as
incident to or necessary for its business over the road
to which she has thus given her aid.

1245 The statute further provides, section 1101 of the Code, upon failure of the company to comply with the requirements of the preceding section, the Comptroller shall report the fact to the Governor, who shall forthwith appoint a suitable person at the expense of the company to take possession and control of the road, and all the property and effects of the company, manage the same and receive the rents and profits.

Section 1103 of the Code provides that the receiver shall apply the rents, issues and profits of the said road to the liquidation of the unpaid interest due upon bonds of the company. 1246

It is evident from these several provisions of the Act that the office of receiver is one of trust purely, in the interest of and for the benefit of the railroad company for which he is acting, and out of the rents, issues or profits which may come to his hands, are for the exclusive purpose of liquidating the unpaid interest and that the same cannot otherwise be applied than for said trust purposes.

1247 It is evident that the State is to derive no profit from said receivership except to relieve herself from her liability as surety for the railroad company, and whenever a sufficient sum is realized to pay off the unpaid interest the receivership is to cease, and the road shall be surrendered to the company. Now, under these various provisions of the law, it seems preposterous to your committee to render the State liable upon her general credit for whatever debts and expenses in the management of running a railroad under a receivership. 1248

It is a well settled principle of law that all expenses of a receivership in a Court of Chancery, the only analogous case to this, is properly charged to the funds in the hands of the receiver. Hence your committee would conclude that the only responsibility that could be incurred by the State in the receivership would be exclusively upon the road thus situated and would only bind it and all its bonds. It may be that expenses thus legitimately incurred should have priority of satisfaction before the discharge of any State lien but not otherwise. Hence your committee would suggest the propriety of raising a joint committee of the two houses of this General Assembly to investigate and audit all such claims, and upon the report of said committee that certain claims were properly incurred in the running of the various railroads of the State in the hands of Receivers, then a bill should be passed directing said claims then audited to be paid out of the first earnings of the respective roads upon which the same were incurred. 1249 1250

Your committee cannot report in favor of the passage of House bill No. 611 in its present shape. But upon its being ascertained what amount or amounts are justly due against said railroad, then they would recommend the passage of this bill with said amendments as to direct the same to be paid out of the earnings of said road.

House Journal, 1869-70. 1251

February 25, 1870. P. 833.

Mr. Barry introduced House joint resolution No. 274, thanking railroads for passes and for other purposes.

P. 846. House joint resolution No. 274 thanking railroads for passes and other purposes was taken up and adopted.

Senate Journal, 1869-70. 1252

RESOLUTIONS.

By Mr. NELSON: Senate Resolution No. 15, viz.:

Whereas, The State of Tennessee expressly reserves the right to enact by the Legislature all such laws as may be deemed necessary to protect the interest of the State, and to secure the State from loss in consequence

1253 of the issuance of such bonds, but so as not to impair the vested rights of the stockholders of the companies, therefore,

Be it resolved by the Senate, That the Judiciary Committee be and they are hereby requested to take into consideration, at the earliest possible period, the expediency of selling certain delinquent railroads in Tennessee, now in the hands of Receivers, and report to the Senate by bill or otherwise.

1254 Adopted under a suspension of the rules. On motion of Mr. Cooper, of Bedford, the vote adopting the resolution was reconsidered, and it was referred to the Judiciary Committee.

Page 59.

Senate Journal, 1869-70.

House Bills on Third Reading.

House Bill No. 153, To provide for the payment of
1255 the Public Debt, was read.

Mr. Etheridge moved to postpone the further consideration of the bill until next Thursday.

Mr. Nelson moved to lay the motion on the table. Carried.

Yeas,	14.
Nays,	9.

Mr. Faulkner offered the following amendment,
1256 viz:

Provided, said railroad companies shall pay into the Comptroller's office, in four equal installments, in six, twelve, eighteen and twenty-four months from date of passage of this Act, the amounts respectively loaned to them; such to be in any of the interest-bearing bonds of the State, without respect to the series of their issue.

Mr. Hall moved to lay the amendment on the table. 1257
Carried.

Yeas, ...	15.
Nays, ...	8.

Mr. Cooper, of Davidson, offered the following amendment:

"SEC. —. Be it enacted by the authority aforesaid, That the Legislature hereby reserves to itself the right and power to repeal or amend this Act whenever, in their opinion, the interest of the State may require it to be done." 1258

Mr. Nelson moved to lay the amendment on the table.
Carried.

Yeas, ...	13.
Nays, ...	10.

Mr. Cooper, of Bedford, offered the following amendment: 1259

"SEC. —. Be it further enacted, That all bonds received by the State under this Act shall have attached to them the coupons due July, 1869, and January, 1870, and all falling due thereafter, until the State shall resume its payment of the interest; and said bonds shall only be received at their par value, not including the matured coupons."

Mr. Clementson moved to lay the amendment on the table. 1260
Carried.

Yeas, ...	13.
Nays, ...	10.

Mr. Cooper, of Bedford, offered the following amendment:

"Provided further, That the road thus paying its inter-

1261 est in past-due coupons shall also retire so much of her debt by delivering to the Comptroller of the Treasury, in discharge of their liability, the bonds from which said coupons are cut, and on which they are due."

Mr. Nelson moved to lay the amendment on the table.

Carried.

Yeas, ... 15.
Nays, ... 8.

1262

Mr. Cooper, of Bedford, offered the following amendment:

"SEC. —. Be it further enacted, That nothing in this Act contained shall be so construed as to diminish or destroy any specific *lien* which any holder of any particular bond of the State may have upon any particular railroad for the security and final payment of said bond and the interest which may accrue thereon."

1263 Mr. Clementson moved the previous question, which was sustained.

Yeas, ... 14.
Nays, ... 9.

Senators voting in the affirmative are: Messrs. Bryant, Clementson, Cubbins, Eason, Greene, Hall, Hawes, Luttrell, Martin, Millsaps, Nelson, Palmer, Self and Mr. Speaker Thomas.

1264 Senators voting in the negative are: Messrs. Cason, Cooper of Bedford, Cooper of Davidson, Etheridge, Faulkner, Hart, Morris, McFall and Pearson.

The bill then passed to its third reading.

Yeas, ... 15.
Nays, ... 8.

Senators voting in the affirmative are: Messrs. Bryant, Clementson, Cubbins, Eason, Greene, Hall, Hawes,

Luttrell, Martin, Millsaps, Nelson, Palmer, Pearson, 1065
Self and Mr. Speaker Thomas.

Senators voting in the negative are: Messrs. Cason, Cooper of Bedford, Cooper of Davidson, Etheridge, Faulkner, Hart, Morris and McFall.

Mr. Nelson moved to reconsider the vote last taken, and then moved to lay that motion on the table.

Carried.

Yeas, ... 15.
Nays, ... 8. 1266

Senators voting in the affirmative are: Messrs. Bryant, Clementson, Cubbins, Eason, Greene, Hall, Hawes, Luttrell, Martin, Millsaps, Nelson, Palmer, Pearson, Self and Mr. Speaker Thomas.

Senators voting in the negative are: Mersrs. Cason, Cooper of Bedford, Cooper of Davidson, Etheridge, Faulkner, Hart, Morris and McFall.

Page 320. 1267

DELINQUENT RAILROADS.

REPORT OF THE COMMISSIONERS APPOINTED TO SELL THE STATE'S INTEREST.

To the General Assembly of the State of Tennessee:

The undersigned Commissioners respectfully report 1268
to your Honorable Body, that, in pursuance of the Act of 1870, Chapter 79, they proceeded—after due advertisement—to offer for sale, separately, the interest of the State in the several Railroad Companies, contemplated by said Act, but failed to sell, or to receive a bid, for either road. This result was not unexpected. The proposal to sell the interest of the State in said Railroad Companies, under the Act of 1870, gave rise to va-

1269 rious embarrassing questions ; some of which are of serious
importance to the interests of the State, as well as
to the stockholders, Bondholders and Creditors of the
several roads ; and are well calculated—so long as they
remain open and undetermined—to deter persons from
buying, and, consequently, to defeat the laudable object
sought to be accomplished by the Act referred to.

Most of these questions are exclusively of a *judicial*
nature. The legislative department of the Government
1270 is not competent to deal with, or make any final obligatory
determination of them. This can only be done
by some tribunal invested with full jurisdiction of the
whole subject matter, and also of the person of all
parties whose rights may, in any way, be affected by
the proposed sale.

After a careful consideration of the subject, the commissioners
are of opinion, that, before a sale should
again be attempted, farther and more specific legislation
is indispensably necessary—providing for the removal
1271 of existing obstacles to a sale under the Act of
1870, by a speedy and final determination of the multifarious
legal questions affecting essentially the rights
of all the parties interested in said roads. Without this,
it is obvious that the interest of the State must be sold,
if sold at all, at a great sacrifice, and be followed, in all
probability, by a multiplicity of vexatious and protracted
litigation.

It may not be improper to remark here, that, by the
act of 1870, the Commissioners were invested with the
1272 mere power to *sell* the interest of the State. No authority
was given them to consider of, or adjudicate any
of the numerous questions that have arisen ; and even
had such authority been conferred, they would scarcely
have felt justified in exercising it, as their proceedings
would have been *ex parte*, and consequently not obligatory
on other parties. Nor do they now assume to express
an opinion upon any of the questions presented ; but
simply state, as briefly as possible, some of the more

important of them, in order that the absolute necessity 1273
of farther action on the part of the General Assembly, preliminary to a sale, may the more fully appear.

And in case of farther legislation, looking to a sale of the interest of the State, the Commissioners would respectfully suggest the propriety of *a sale on time*, and payment in instalments, upon such stringent conditions as would coerce prompt compliance with the terms of the sale, on the part of the purchaser; say, let twenty-five per cent. of the amount agreed to be paid,
be required in hand, and the remainder at such inter- 1274
vals as might be deemed proper. The purchaser to pay the interest semi-annually, on the whole amount agreed to be paid by him, from the time of his purchase; and his failure promptly to meet any future instalment to work an absolute forfeiture, to the State, of the payment or payments previously made by him; and, in addition, that the road should be instantly, upon such default, resold by the Commissioners.

The Commissioners would further suggest that the
provision of the Act of 1870, fixing the minimum price 1275
of sale at the amount due from each company to the State, is impracticable. They are fully satisfied that the interest of the State in some of the roads—especially the shorter and least valuable roads—cannot be sold for an amount even approximating the debts due to the State. And in this view a minimum price ought either to be fixed upon each road, or a discretion vested in the Commissioners in regard to the price.

And in this connection, the Commissioners beg leave
to express their approval of that feature of the Act of 1276
1870, which secures to the purchaser the right to discharge the amount of his purchase in any of the legal bonds of the State. This provision, they believe, will, in no small degree, facilitate a sale, and serve to enhance the price. And it cannot be of prejudice to the State, inasmuch as it is all the same to the State whether a given amount of its liability be extinguished, by the surrender and cancellation of one set of bonds or

1277 another. The only conceivable objection, as it seems
to the Commissioners, would be in the mouth of the
purchaser himself, and that only in the event that it
should be held that the bondholders have a lien on the
road. But this objection is of no practical force if the
State shall provide for the faithful discharge of the
remaining outstanding bonds as they mature.

Having made these suggestions, the Commissioners
proceed to present to the consideration of your Honorable
body some of the embarrassing questions before
1278 alluded to.

One of the difficulties is, the ascertainment of the
actual indebtedness, of some of the companies, to the
State.

Shortly preceding the day appointed for the sale, by
the commissioners, three injunction bills were filed at
Nashville, against the commissioners—one by the Edgefield
& Kentucky Road; another by the Memphis,
Clarksville & Louisville Road; and a third, by certain
creditors of said roads—an injunction, to restrain a sale
1279 by the commissioners was refused, but the commissioners
were enjoined, in case of sale, to retain of the proceeds
an amount sufficient to cover the demands set up by the
alleged creditors.

It seems that the receivers of some of the roads contracted
large debts, for the benefit of the roads, as is
alleged, to different persons and on different accounts;
and it is assumed that the State is liable for these
debts; and upon this assumption the injunction was
awarded.

1280 How far these demands are just and *bona fide*, it is
not for the Commissioners to say; and if, upon a careful
judicial investigation, they shall be found to be
valid, whether the State can be held liable for their
satisfaction, under the existing laws, must be left for
the courts to determine.

It further appears, that after the roads were placed
in the hands of receivers, the Governor, under an act
of the General Assembly, passed in 1866, assumed, for

the Memphis, Clarksville, and Louisville Road, a debt 1281
to the United States Government of between three and
four hundred thousand dollars ; and for the Edgefield
and Kentucky Road a debt, of like character, of more
than one hundred thousand dollars. These companies
insist that they are not liable for these debts.

It also appears that, by an act passed in 1867, bonds of the State, to the amount of two hundred thousand dollars, were issued to the Henderson and Evansville Railroad Company.

This road lies beyond the limits of this State, and 1282
wholly within the territorial limits of Kentucky ; and
the proceeds of said bonds were exclusively applied to
its construction. For this singular appropriation of
the bonds of the State, the Edgefield Company insists
that it cannot be made liable.

It further appears that, to the Edgefield and Ken-
tucky Road, and to the Memphis, Clarksville, and
Louisville Road, and, perhaps, to other roads, after
they were placed in the hands of receivers, bonds of
the State, to a very large amount, were issued and 1283
delivered to said receivers, which it is alleged, were
disposed of greatly under par ; and it is now claimed
by said companies that they are not properly liable
to be charged with the bonds thus issued, but that, if
held liable at all, it should not be for a greater amount
than was actually realized from their sale.

It is manifest that, in regard to the issuance of bonds
to some of the roads, and the reckless disposition of
them, and general management of the roads, by some
of the receivers, a heavy responsibility rests some- 1284
where ; but upon whom it should fall, it is not within
the province of the Commissioners to determine.

It need scarcely be stated that the foregoing, and other questions raised by said companies, must be adjudicated before the amounts due from them respectively can be accurately stated ; and it is apparent that this should be done before a sale of the State's interest is made.

Another question of importance, and in regard to which there is some diversity of opinion, is, what interest will vest in the purchaser of the State's interest in the road? What rights will be acquired, and what liabilities incurred by him? Will he, in all respects, stand in the shoes of the State, as a mere assignee of the State's interest in the road? And in case the company, in the future, should find itself able to pay its arrearages of interest on its bonds to the purchaser, will such company, as against him (in like manner as it would against the State, if no sale had taken place), still be entitled to be restored to the possession of its road, as provided by Act of 1852, Section 5?

Again, an important question, as to which there is, also, a wide difference of opinion, is, have the holders of the bonds, issued to a particular railroad company, a lien upon the road and property of that company, as security for the payment of such bonds at maturity? Or have they no other pledge than the faith of the State?

In regard to some of the roads, this further question arises: After bonds to a large amount had been issued to certain companies by the State, said companies were empowered, by Act of the General Assembly, to issue second mortgage company bonds, large amounts of which were actually issued and passed into the hands of *bona fide* holders; and subsequently to the issuance of such company bonds, a second issue of bonds of the State was made to said companies.

Now, upon this state of facts, the question is to be determined whether the lien of the State, provided for by the Act of 1852, shall, as regards the second issue of bonds, be preferred over the lien of the intermediate holders of the company bonds, or be postponed to it?

The foregoing general questions involve various collateral and subordinate matters, which it would be tedious to detail, and which, for the present purpose, need not be noticed, as enough has been stated, perhaps, to enforce the absolute necessity for such further

legislation as shall seem best adapted to disembarrass 1289
the proposed sale.

The Commissioners further state, that an effort seems to have been made, in some quarters, to prejudice the proposed sale of the State's interest in the roads, on the alleged ground of want of legal power in the State, under the act of 1852, to make any sale of the same, except on default of the companies to meet the final payment of their bonds at maturity.

This objection, in the opinion of the Commissioners,
has no foundation. The legal power of the State to 1290
assign and transfer its interest in a railroad (whether the company be in default or not), in the proposed mode of sale, can admit of no doubt. It cannot be held that the State, in this respect, is not possessed of, at least, equal power with every private individual mortgagee. And certainly, in view of the very comprehensive and cogent provisions of the 12th section of the act of 1852, this must be regarded as a very lenient exercise of power on the part of the State toward the
companies that have, for a series of years, failed to 1291
perform the obligations of their contract with the State, created by the act of 1852, in neglecting to meet the accruing interest on their bonds semi-annually, and to provide a sinking fund. The spirit and reason of the act referred to would, perhaps, sanction a much stronger measure of redress.

It might, with more plausibility, be maintained that the palpable violation on the part of the delinquent companies, of the fundamental terms of their charter,
on the faith of which the credit of the State was loan- 1292
ed to them, amounted to a forfeiture of the entire benefit of their contract, so as to justify a sale, out and out, of the *corpus* of the property, without right of redemption.

These companies cannot be heard to say that they may persist in neglecting to pay the interest on their bonds, and in providing a sinking fund; and that the State, though reduced to the verge of insolvency by

1293 their neglect, must silently stand by, for a period of twenty years, more or less, until their bonds shall finally mature.

It is obvious that the remedy adopted, of placing the roads in the hands of Receivers, is illusory, as the experience of the past few years has sufficiently demonstrated. This expedient, so far from furnishing the Treasury with the means of meeting the accruing interest on the bonds of the delinquent companies, and providing a sinking fund, has resulted, in most instances,
1294 in a heavy loss to the State; and has likewise proved to be a fruitful source of fraud and corruption.

Better for the State to abandon its interest in the roads at once, than to attempt their further management through the agency of Receivers, at such ruinous loss.

In conclusion, the undersigned would respectfully urge the speedy adoption of such measures as your Honorable Body may deem most expedient to relieve the credit of the State, and to arrest the rapid accumulation of the public debt, which is estimated to be, at
1295 present, not short of $2,500 per day.

D. W. C. SENTER,
FRANCIS B. FOGG,
A. WRIGHT, By F. B. FOGG.
I. H. BUTLER,
ED. R. PENNEBAKER,
R. J. McKINNEY.

1296

House Journal, 1870-71, page 391, 27 June, 1870.

Mr. Steele, from the Committee to examine into the payments made by the Memphis and Charleston Railroad to the Bank of Tennessee,

Submitted the following report:

Mr. Speaker: The undersigned, as a member of the

Joint Select Committee, appointed by authority of a 1297
joint resolution of this General Assembly, adopted February 28, 1870, to investigate the alleged payments made by the Memphis and Charleston Railroad Company to the Bank of Tennessee on account of interest due on bonds loaned by the State to said Company, together with the time when paid and where, and amount, and if upon investigation the Committee are satisfied that the Memphis and Charleston Railroad Company have made proper payments, and which
have not yet, but ought now to be allowed, to report the 1298
facts to this General Assembly for action, by bill or otherwise, beg leave to make the following report:

By the Act to establish a system of Internal Improvements in the State, passed February. 11, 1852, coupon bonds of the State to the amount of $1,081,000 were issued to the Memphis and Charleston Railroad Company, payable in lawful money of the United States, and at such place in the United States as the President
of said Railroad Company may designate. The president 1299
designated the city of New York as the place where said bonds and the semi-annual interest thereon should be paid. By the 5th Section of said Internal Improvement Act it was made the duty of the Memphis and Charleston Railroad Company to deposit in the Bank of Tennessee at Nashville, at least fifteen days before the interest became due, from time to time, upon said bonds issued to said company an amount sufficient to pay such interest, including exchange and necessary
commission, or satisfactory evidence that said interest 1300
has been paid or provided for; and if said company fail to deposit said interest as aforesaid, or furnish the evidence aforesaid, it shall be the duty of the company to report that fact to the Governor, who shall immediately appoint a Receiver for the road, etc.

By an examination of the Comptroller's books it is shown that the Memphis and Charleston Railroad Company are credited with the deposit in the Bank of

1301 Tennessee of their interest due July 1, 1861, and January 1, 1862, except the sum of $3,540 yet unpaid.

No evidence is shown that said deposit or payment was made in lawful money of the United States as required by law. No exchange or necessary commission was deposited by the Company in the Bank of Tennessee to arrange for, and secure the payment of the interest for 1861 in New York. The Railroad Company might then have paid their interest in New York, and furnished the evidence of such payment to the Bank of 1802 Tennessee. If they were prevented from so doing by the war between the States then raging, then they knew that any deposit of money with the Bank of Tennessee not in lawful money of the United States, would prevent the Bank at that time from paying the interest in New York.

The interest on said bonds falling due July 1st, 1862, and January 1st, 1863, was never paid by the Company, amounting to $64,860. The Company claimed a credit for the interest falling due July 1st, 1863, and January 1303 1st, 1864, which they allege was deposited in the Bank of Tennessee at Griffin, Georgia, and present the following receipt as evidence of deposit in the Bank of Tennessee of $32,450.

BANK OF TENNESSEE, GRIFFIN,
October 14*th*, 1863.

Received from the Memphis and Charleston Railroad Company, per George Robertson, Eng., Tr., thirty-two 1304 thousand four hundred and fifty dollars, which is to be paid over to the Treasurer of Tennessee for the semi-annual interest from said Railroad Company to the State of Tennessee on July 1st, 1863.
$32,370.

JOHN A. FISHER,
Cashier.

BANK OF TENNESSEE, GRIFFIN, GA., 1305
December 21st, 1863.

Received from the Memphis and Charleston Railroad Company, per George Robertson, Treasurer, thirty-two thousand three hundred and seventy dollars in currency, which is to be applied to the payment of the interest due from said Company upon January 1st, 1864, upon aid furnished by the State of Tennessee.

JOHN A. FISHER,
Cashier Bank of Tennessee. 1306

The above deposits appear on the books of the Bank to the credit of railroad companies for interest. It is apparent from said receipts, that the "deposits" were not made in the Bank of Tennessee at *Nashville.* It was in proof before the committee, that the deposit consisted of confederate currency, perhaps some Georgia and South Carolina bank notes, and that none of either of the deposits consisted of "lawful money of the United States," which 1307 the Company had agreed to pay in the City of New York; nor was the "exchange and necessary commissions" to enable the bank to effect the payment in New York, deposited with the interest. It was in fact and in law no payment or deposit as required by the Internal Improvement Act.

The Bank of Tennessee, as fiscal agent of the State, had no authority to receive such a deposit for the State from the railroad company; nor could the holders of the interest coupons be compelled to receive such 1308 deposits from the Company or the Bank, in payment of their dues. The railroad company, at the time very well knew that the Bank of Tennessee could not arrange for the payment of interest in New York, with such a depreciated or worthless currency deposit, nor would it have been permitted so to do by the Confederate authorities, even if the deposit had consisted of lawful money of the United States. The books of the Comp-

1309 troller show that the railroad company had never been
allowed any credits for the deposits or pretended pay-
ment of interest at Griffin, Georgia.

The company stand charged for the interest to-day.
No interest was paid by the company for the years
1862, 1863, 1864, 1865, and to the 1st of January 1866,
as appears from the Comptroller's book.

By an Act of the Legislature entitled an Act to amend
an Act to establish a system of Internal Improvements
in this State, passed 23d of November, 1865, all interest
1310 on the bonds of the State issued, or endorsed to rail-
roads, then past due and unpaid, as well as the interest
1st January, 1866, and during the year 1867, was funded
by the State. And the several railroad companies that
received aid under that act even required to pay the
interest on their funded debts, and a lien was retained
on the road by the State for the payment of interest
funded.

Under this Act interest due and owing from the
Memphis and Charleston Railroad to the amount of
1311 $262.980 was funded for it by the State of Tennessee.
This funded interest *included* the interest falling due
1st January, 1863, and 1st January, 1864, which the
Company allege they paid as aforesaid in Bank at
Griffin, Georgia, and now claim they ought to have a
credit therefor. The State of Tennessee is contingently
bound to pay all the $262,980 funded and interest thereon,
and has refused through the Comptroller to give the
Company any credit for the $64,820 unlawful currency
deposited in Georgia.

1312 It would be very unjust for her to pay this amount
funded and allow this company to have a credit entered
on the books of the Comptroller, for currency deposited
in Bank at Griffin, Georgia, none of which was, or
ever could or would be used, or received in payment of
the interest for 1863. The holders of the interest
coupons for that year have been paid by the State in
funding bonds issued for the benefit of railroad com-
panies. Said company accepted the benefit and pro-

visions of the Act of November, 1865, and thereby 1313 admitted that the deposits at Griffin, Georgia, were no payment at all. The State has made payment of that interest instead of the railroad company ; and it would be a monstrous act of injustice to allow the Memphis and Charleston Railroad Company a credit for interest. The case presented is an entirely different one to that of a debtor to the Bank of Tennessee ; the railroad company was a debtor *to the holders of the interest coupons* due in 1863. (Italics in the original.) The Bank nor the Company could not bind the State for 1314 such deposits by the Company at Griffin, or even at Nashville ; they never paid but which the State has funded.

The foregoing are the facts in the case as they appeared to the undersigned in making the investigation called for by the resolution of this General Assembly.

Being satisfied that said company is not entitled to a credit for said deposit, and ought yet to pay said interest, the undersigned recommend the passage of the following joint resolution. 1315

Be it resolved by the General Assembly of the State of Tennessee, That the Comptroller be and he is hereby ordered *not* to enter to the credit of the Memphis and Charleston Railroad Company upon the books of his office the sum of $32,450 as of the 14th of October, 1863, and the sum of $32,370 as of the 21st of December, 1863. All of which is respectfully submitted.

A. A. STEELE,
Of the Committee on the part of 1316
the House of Representatives.

The undersigned concurs in so much of the above report as states the facts connected with the payment of the two amounts in dispute, but he dissents from the conclusion of his colleague, the representative from Marshall, the undersigned being of the opinion that the Comptroller should credit the Memphis and

1317 Charleston Railroad Company with the amount embraced in the two receipts which are set out in the foregoing report.

W. B. WILSON,
Representative from Maury.

The Report was read and adopted.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an extract from the House Journal of 1870-71, being report 1318 of the Committee to examine into the payments made by the Memphis & Charleston Railroad to the Bank of Tennessee, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the great seal of the State of Tennessee, [L. S.] at the Department in the city of Nashville, this 30th day of July, A. D. 1319 1879.

CHAS. N. GIBBS.
Secretary of State.

STATE OF TENNESSEE, }
Davidson County. }

I, JNO. C. FERRISS, sole Presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to 1320 the foregoing certificate is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such and that said attestation is in due form of law, and by the proper officer.

Given under my hand at Office, in Nashville, this 31st day of July, 1879.

JNO. C. FERRISS.
County Judge.

STATE OF TENNESSEE, } 1321
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss whose genuine signature appears to the foregoing certificate, is now, and was, at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

1322
Witness my hand and seal of said Court,
[L.S.] at office, this 31st day of July, 1879.
J. R. McCANN,
Clerk.

GOV. BROWN'S MESSAGE, p. 29.

House Journal and Appendix, 1871. 1323

The delay of the solvent roads that have retired their indebtedness to the State under the Act of 20th January 1870, to avail themselves of the benefit of the Act, indicates an indisposition to do so, and inasmuch as more than eighteen months have elapsed since this legislation was adopted, I recommend that the act be either repealed, to take effect at some future time not remote, or that its provisions be so remedied as that the roads be required to pay all accrued interest as well as the 1324
sinking fund not heretofore paid.

The reason for this suggestion is that ample time has elapsed for these roads to have aided the State in diminishing her outstanding indebtedness under this most liberal legislation if disposed to do so, and the continuance of this policy affords an opportunity for speculative transactions injurious to the credit of the State and in no way beneficial to the great mass of the

1325 people. While the railroads of the State should be fostered and receive all necessary aid and assistance, yet they must not be allowed to become oppressive monopolies at the expense of the prosperity of the general community.

COMPTROLLER'S REPORT.

1326

October, 1871.

E. R. Pennebaker, P. 109.

In my possession there are several thousand bonds which have been paid in by railroads, also some hundreds signed but never used by the State except for the purpose of collateral in effecting loans. The responsibility of guarding them is greater than I feel willing to bear, and as no good can be accomplished by keeping them, I would recommend a committee to count, record 1327 the numbers and burn them; they will then be out of danger.

GOVERNOR'S MESSAGE,

TO LEGISLATURE OF 1879.

1328 *Gentlemen of the Senate and House of Representatives:*

The able and exhaustive communication of my immediate predecessor in office in a great measure relieves me in the performance of the duty imposed upon me by the Constitution.

The subject first in importance claiming your attention is that of the State debt.

It is obvious that it is impossible for the State to

meet its ostensible obligations, and this inability has 1329
resulted in a total cessation of payment. Payment
upon no part of the debt can be renewed until there
shall have been an adjustment of it upon such basis as
will bring the debt within the ability of the tax-payers
to meet it. This subject is embarrassed by great difficulties,
and until they are solved, the State must continue
to suffer from discord at home and reproach
abroad.

An impartial investigation of the financial history of
the State will show that, when her government was in 1330
the hands of her people, in financial integrity and forecast,
Tennessee was second to no State in the Federal
Union; that all of her embarrassments have resulted
from the late war, and the usurpation of her State government
following the war, and that all imputations
upon the honor of the State proceed from malice, interest
or ignorance. That history will also testify that
Tennessee never created a dollar of debt without at the
time of its creation, providing a safe and sufficient
mode of payment, and that too without calling upon 1331
the tax-payers for the slightest contribution.

It has been asserted abroad by those whose purpose it
is to injure and defame the State, that while she is enjoying
the benefits of the investments made with the proceeds
of her bonds, she willfully refuses to provide for
her just obligations, and is, therefore, a wilful and dishonest
delinquent. This assertion is not only without
foundation in truth, but on the contrary the facts show
that the only occasion for reproach to which the State is
justly subject, is that at the proper time she failed to 1332
assert the rights of her tax-payers. As defamation can
contribute nothing to the solution of the difficulties
which embarrass this subject, but instead tends to
aggravate them, it is to be regretted that it has been
employed.

A thorough and exhaustive examination of all the
facts connected with this subject, and a firm adherence
to the principles of justice in its adjustment will solve

1333 it, permanently and satisfactorily. But if passion is to frighten judgment from its propriety; if justice is to be defeated by accident or occasion; if unjust advantages are not to be surrendered; if wrong is to be cured by time, then indeed the future is without promise.

The proper limits of this communication will not permit that extended analysis of this subject which its importance merits. The salient facts only will be presented as briefly as possible, with such recommendations as appear to be appropriate.

1334 When the war of 1861 began, the debt for which the State was primarily liable consisted of the following elements:

First, for stock in turnpike companies in the sum of $1,227,556.66. Nearly the whole of this debt bore interest at the rate of 5 per cent., and the remainder at 5½ per cent. This investment was secured by a lien in favor of the State upon the roads and property of the several companies, and also upon the usufruct arising therefrom.

1335

Second, for stock in certain railroad companies in the sum of $835,250.00. Nearly the whole of this debt bore interest at the rate of 5 per cent., and the remainder at 5½ per cent. This investment was secured by a like lien.

Third, by six per cent. bonds loaned the Bank of Tennessee, in the sum of $1,000,000.00.

Fourth, by six per cent. bonds for the purchase of
1336 the Hermitage, in the sum of $48,000.00.

Fifth, by six per cent. bonds for the building of the State capitol, in the sum of $658,000.00.

The whole amount of this debt, then, was $3,768,806.66. Its annual interest was $206,236.00. The revenue paid into the State treasury annually, arising from these investments exceeded the annual interest on the whole by about $200,000.00

The debt for which the State was then secondarily liable was as follows: 1337

First, by six per cent bonds loaned the Agricultural Bureau, for the sum of $30,000.00.

Second, by six per cent. bonds loaned turnpike and plank road companies, for the sum of $57,000.00.

Third, by six per cent. bonds loaned railroad companies, for the sum of $13,739,000.00.

After the 6th of May, 1861, there were issued to the Rome and Carthage Turnpike Company six per cent. bonds amounting to $8,000.00, and to the Mobile and 1338 Ohio Railroad Company six per cent. bonds amounting to $172,000.00. These bonds were repudiated in 1865, but still the Comptroller included them in the execution of the Funding Act of 1866, as a part of the public debt.

The Agricultural Bureau, a part of the plank road, and turnpike companies, and two of the railroad companies were then in default. The whole amount of the bonds was $1,335,000.00, bearing an interest of $80,100.00. Without estimating the measure of the de- 1339 fault, and assuming that no part of the interest was paid by the principals in the debt, the whole interest for which the State then had to provide was $286,336.00; and after paying it all the State still received into the treasury, annually, over $100,000.00 from its investments in excess of the interest it had to pay to public creditors.

But in fact, all of this debt except $87,000.00 was the debt of two delinquent railroad companies, and as other roads with equal debt and less business facilities 1340 continued to pay their interest, it is obvious the delinquency was but partial and temporary.

The debt recited comprehends the entire liability of the State existing at the time, both primary and secondary, except a contingent liability as endorser upon the bonds of certain railroad companies amounting to $2,207,000.00.

It appears, therefore, that when the war began, the

1341 public debt was not only no burden upon the tax-payers, but, on the contrary, the investments made by the State contributed largely to alleviate the burden of taxation for the ordinary purposes of government.

The credit of the State had been so cautiously extended to the railroad companies that the possibility of loss was remote. The internal improvement act of 1851–2, with its subsequent amendments, not only provided abundant indemnity for the State, if faithfully adhered to, but it made the perpetration of fraud upon
1342 the State impossible. The cost of the railroads of the State was estimated to be from twenty-six to twenty-seven thousand dollars per mile. The law limited the amount for which the State could become surety for the company to about $11,000.00 per mile for all purposes, with a lien upon the whole property and its usufruct for its indemnity. Nor was aid in any case to be extended until the road was so far completed as to insure completion by the application of the amount guaranteed by the State, and to the end that the road,
1343 when completed, should be of such value as to afford unquestionable indemnity to the State and protection to the tax-payers, the sale of a bond under its par value was expressly prohibited, and the actual application of the whole proceeds of the bonds to the sole purpose prescribed by law was directly enjoined. By a positive provision of the law the power to issue bonds, with which the Governor was clothed, was made conditional, and those conditions were:

1st. That there was stock subscribed sufficient in amount and solvency to grade and bridge the whole
1344 road.

2nd. That a given number of miles were completed.

3d. That there was no other lien upon the road.

4th. That the bonds were to be exclusively applied to the purposes prescribed.

5th. That the bonds were not to be sold for less than their par value.

The law prescribed that all of these precedent conditions should be made to appear to the Governor by the affidavits of certain officers of the Company, by a resolution of the Board of Directors, and by the affidavits of an Engineer and Commissioner, each appointed by the State. When all of these conditions were shown to exist in the mode prescribed by law, then, and not till then, did the Governor have power to issue the bonds. To protect the tax payers against fraud and negligence, the original Act prescribed that its limitations and conditions should be notice to all. 1345

The geographical position of Tennessee made her soil the theatre of active military operations from the beginning to the close of the war. The blight of war which fell upon Tennessee is without parallel in modern times. For years her Courts were closed; her laws abrogated; her people left without protection; the arts of peace abandoned; and her accumulated wealth, banking capital and currency annihilated—licensed murder, arson, robbery and pillage filled the land with terror, want and suffering. The general Government seized and appropriated to its use the crops and stock of the non-combatant citizens without compensation. It occupied and used all the property belonging to the State, and all upon which it had a lien for the security of public creditors. It made the State Capitol a military fortress. It converted the Asylum and University buildings into military hospitals and barracks, and wantonly destroying a part of them, it seriously damaged them all. It filled the Penitentiary with its prisoners. It destroyed the turnpike and plank roads in its military use. It stripped the branch railroads of their iron, and appropriated it to its own use. It operated the main lines of railroads from the beginning of 1862 to the close of 1865, and appropriated all of the profits. It took from the State the banking power which had been so profitable to it, and bestowed it upon its own bondholders. 1346 1347 1348

With a debt to provide for at the close of the war, and every source of revenue destroyed save that of a

1349 direct tax upon the impoverished citizens of the State, the situation was perplexing, but by no means desperate.

The annual interest for which the tax payer had to provide upon the State debt proper, for bonds loaned the Agricultural Bureau and turnpike and plank road companies was $211,456.00. The coin assets of the Bank of Tennessee converted into National bonds yielded an annual interest of $45,132.25, which reduced the amount to be raised by taxation to $166,324.75. In
1350 addition to this indebtedness the State had issued bonds to eight railroads, which ultimately proved insolvent, amounting to $4,428,000.00. All of these roads which had not been stripped of their iron, were worth the amount of the bonds issued them, as the iron was low when purchased, and had largely enhanced in price. If these roads had then been sold, and the proceeds turned over to the holders of the bonds issued to them, with the claim on the Government for the iron appropriated, it is clear that these bonds could have been thus fully paid. But if it be assumed that the insol-
1351 vent roads were worth no more than one-half the debt, the annual interest for which the tax-payers would have been required to make provision, would not have exceeded $300,000.00, an amount which they could have met without serious difficulty.

All of the balance of the public debt, was the primary debt of solvent companies, then and now able to meet it.

But unfortunately, with the return of peace, the Government of Tennessee was not restored to the tax-
1352 payers. The first utterances of the Governor and Comptroller in 1865, exhibited clearly that the rights of the tax-payers and the obligations of the general Government were appreciated. In discussing the duty of the general Government to pay the interest which had accumulated during the war, upon the railroad bonds, the Governor said: "As the war is for the benefit of the whole nation, it is not believed that the

general Government intends that Tennessee shall pay 1353
more than her just proportion of the war debt." The Comptroller, after reciting the fact that the general Government in 1862 took possession of and was still using the roads of the State, except the Louisville and Nashville road, said: "That the general Government will pay the State for the use of the roads a sum adequate to meet the interest on the bonds, we cannot doubt." The Governor recommended but two measures of relief. The first was to repudiate all bonds held
by "Rebels," and the last to have the general Govern- 1354
ment to pay its debt to the State. The one was found impracticable, and the other was refused. The war interest was then funded. To demand it under the circumstances was cruel, and to concede it was a crime. There was a precedent directly in point. By the treaty which concluded the Revolutionary war, there was a stipulation that the debt due British subjects before the war from the citizens of the United States should be deemed valid, and the Courts of the States should
be open for their collection. All the States declined to 1355
allow interest. The British Minister called Mr. Jefferson's attention to it, and upon this point, among other things, he said: "And we may add, once for all, that there is no instrument or title to debt so formal and sacred as to give a right to interest on it under all possible circumstances. * * * If, then, there is no instrument or title of debt so formal and sacred as to give the right to interest under all possible circumstances,
and if circumstances of exemption, stronger than in the 1356
present case, cannot possibly be found, then no instrument or title of debt, however formal or sacred, can give the right to interest under the circumstances of our case. * * General calamity then prevented profit, and consequently stopped interest, which is in lieu of profit." It need not be affirmed that the "general calamity," then, is not comparable to the general calamity of Tennessee resulting from the late war.

1357 The next fatal step was the issue of additional bonds to the insolvent roads. It was done under the pretence that it was necessary to enable those roads to meet the interest upon their ante-war bonds, and thus protect the tax-payer. All of these bonds were pretended to be issued under various amendments to the Act of 1851–2. The amount issued was $10,683,000. There were honest men in the Legislative bodies which authorized this fraud, but their efforts to protect the State were unavailing. But their manly protests ex-
1358 hibit the shameful methods employed in the perpetration of this vast fraud. The facts subsequently officially developed, in connection with the Journals of the two Houses, show that appropriations were refused unless the members were paid to make them. It appears that bonds were sold at a large discount to raise money to pay members to vote further appropriations. It appears that with the proceeds of bonds so sold, a minister of the Gospel was employed to manipulate members of the Legislature, and that when he reached the Capi-
1359 tol, a bill authorizing the issuance of bonds, had been rejected by a decided majority. In the morning he opened the proceedings with prayer; before night the vote was reconsidered, and the next day the bill passed with but two dissenting votes. This bill appropriated $3,000,000.00 to the insolvent roads.

It appears that relatives of high officials were paid money, the proceeds of bonds, to induce favorable action in the further issuance of bonds. It appears that bonds were sold at a large discount to pay interest in
1360 order to conceal delinquencies. That the proceeds were used to pay high salaries to railroad officials; to pay exorbitant lawyer's fees; to pay old debts, and in short, applied to an infinite variety of other unlawful purposes. It appears that the Governor, who was clothed with the power to decide when the law was complied with, delegated his power to issue bonds, and that many of them were signed and issued by one of his subordinates in the City of New York. The prodi-

gal waste of this vast sum can be appreciated, when 1361
it is stated before the war the State had appropriated
bonds to the insolvent roads of East Tennessee to the
amount of $471,000.00. That after the war, for the alleged purpose of protecting the tax-payers from paying
interest on the $471,000.00, there were issued to the insolvent roads of East Tennessee $4,847,000.00. That
when they were sold they brought, in depreciated
bonds, $768,000.00, worth not more than $350,000.00
in currency. The same disastrous policy was pursued
in dealing with the delinquent roads of Middle and 1362
West Tennessee.

By an examination of the unanimous report of the
Joint Judiciary Committee of both Houses of the Legislature of 1869–70, composed of some of the best lawyers
in the State, in relation to the validity of the bonds
issued to the Tennessee & Pacific road, it will be found
that the principle is affirmed that unless the conditions
and limitation fixed by law were complied with, in the
mode prescribed, that the Governor had no power to 1363
issue bonds, and if issued without such compliance
they are void. The same committee, in its report in
relation to the Mineral Home road, declared the principle that if the law was fraudulently complied with, and
the purchasers of the bonds purchased at less than the
par value of the bond, he and purchasers from him
were affected with notice, and the bond void. In his
message of 1875, Governor Brown declared the principle, in discussing the liability of the State upon the
endorsement on the bonds of the Memphis & Little 1364
Rock road, that if the purchaser paid full price, yet if
the Governor who issued the bonds did not comply
with the law, the bonds were void. Upon this point he
said, "The execution of these mortgages and providing
of a sinking fund, were conditions precedent to the
right and power of the Governor to endorse said bonds,
and the liability of the State did not attach in the
absence of a compliance with such conditions."

1365 Tested by these principles, but few, if any, of the post-war bonds were valid.

The holders of these bonds were aware that when the Government was restored to the people, and they had knowledge of all the facts, and were left free to act, they would never recognize this debt. It is not supposed the debt would be repudiated, but it was believed the relative value of that part of the roads built by the ante-war bonds, and that built by the post-war bonds, would be ascertained, and the Courts opened for
1366 the sale of the roads, and that so much of the proceeds as arose from the roads built by the post-war bonds would be paid on those bonds, and nothing more, and the remainder applied to the ante-war bonds.

When the election of 1869 demonstrated that the right to vote and to hold office was about to be restored to the whole people, the interest of the solvent Railroad Companies and the holders of the post-war bonds concurring, they made a joint effort to procure legislation allowing the solvent Railroad Companies to buy
1367 the post-war bonds and deliver them to the State, and for every bond delivered to have the tax-payers assume one of theirs.

At the beginning of the session of 1869–70, a bill was introduced upon this subject and passed the House. In the Senate there was an able and unanimous report rejecting the bill, and by a decided vote the Senate concurred in the report. Subsequently, by some means, the bill became a law. But the bill that was passed was not all that was desired. Although there had been
1368 no investigation, it was believed that the post-war bonds had been illegally issued and sold, and fraudulently used, and therefore the act restricted the right of exchange to bonds "legally issued."

The post-war bonds, by reason of their infirmities, were greatly depreciated, and although there were two grave questions in the way of the solvent railroad companies, yet the speculation was so tempting they determined to take the chances. The first difficulty was

that as the act restricted the right of exchange to bonds 1369
"legally issued," and as there had been no investigation or determination of that question, it was uncertain what bonds had been "legally issued." The other difficulty was that the holders of the bonds issued to the several solvent roads had a lien upon all the property and its usufruct of the respective roads for the payment of the bonds, and it was doubtful whether the State could defeat their lien by legislation. The first question the solvent railroad companies determined to decide for themselves; and they decided that all 1370
the bonds were "legally issued," and the report of the Comptroller shows they bought and paid in the most objectionable bonds first, as they were the cheapest, and this was done in great part before an investigation was had.

This precipitate action upon the part of the solvent railroad companies seriously embarrassed the action of the Legislature, and that embarrassment was augmented by a threatened military government, which was then asked for by the members in the Lower House of 1371
Congress from Tennessee.

The question as to the lien of the bondholders is now pending in the Courts.

In 1869 the just debt for which the taxpayers had to provide was comparatively small, while the debt of the solvent roads was large, but by manipulation the solvent railroads undertook to transfer their debt to the taxpayers and relieve themselves.

Under duress from the threatened overthrow of the State Government by Federal interference, and believ- 1372
ing they had the ability to provide for the payment of the entire debt, the taxpayers submitted to the grave wrongs which had been done them, rather than imperil their liberties, and subject themselves to unfriendly criticisms. But a debt difficult to bear in the beginning, and constantly augmenting by fraud and funding, while all values were rapidly depreciating, became at

1373 last too great for them to bear, and they went down in
the hopeless effort.

At no time since the first funding act have the tax-
payers been able to pay the interest upon the nominal
public debt. An examination will disclose the fact
that there was no legitimate payment of interest before
1870. The interest was paid by borrowing money, by
appropriating the assets of the Bank of Tennessee, by
selling bonds to raise money, and partly by taxation.

In 1873, when the payment of interest was resumed,
1374 it was estimated that the taxable property of the State
would now be $700,000,000. In fact, it is but a little
over $300,000,000. The bond-holders appreciate the fact
that the debt cannot be met, and long since a compro-
mise would have been had but for the fact that the
holders of the bonds of the solvent railroads regarded
their bonds still a lien upon the roads, and until that
question is settled adversely to them they will never
offer a compromise within the ability of the tax-
payers.

1375 The confusion of the just debt of the State with the
questionable and fraudulent debt has resulted disas-
trously to her interest and reputation. There has
never been a time when the State was not able and
willing to pay the interest upon her just indebtedness,
but by uniting all, payment has been made impos-
sible.

The bonds which represent the several branches of
our State debt, can at least be approximately distin-
guished, and if so, they ought to be distinguished, and
1376 permit each branch of the debt to stand upon its own
merits, and be adjusted accordingly ; and for this pur-
pose an appropriate committee should investigate all
the facts connected with the debt, and report thereon,
in order that the justice of the case of the State may be
exhibited, and intelligent action had. All efforts at an
adjustment of the debt heretofore have failed, and that
failure has resulted from the fact that the meritorious
debt and the unjust debt have been equally recognized,

and until a plan is adopted, founded in justice to all, it 1377
is apparent no satisfactory result will be reached.

Uniform legislation by the General Government in favor of capital and against production, has not only depreciated values in the State, but has paralyzed more or less every industrial pursuit. Consequently, the subject of the State debt presents itself at a most inauspicious time for adjustment, yet it is obvious that some step should be taken to solve the difficulty and remove all just occasion for reproach.

An investigation will disclose that the public debt is 1378
divided into the following branches, stated in the order of their merit: First, the primary debt of the State, and distinguished as the State debt proper. This part of the debt embraces the bonds for the Capitol and Hermitage, the only property now owned by the State, as the result of its investments. Second, the bonds loaned the Agricultural Bureau. Third, the bonds loaned Turnpike and Plank Road Companies before the war. All of this property has been sold and the
proceeds turned over to the bondholders. Fourth, the 1379
bonds loaned to solvent Railroad Companies. These companies own their roads and take all the profits. Fifth, the post-war bonds. All of the property purchased with them has been sold and the proceeds paid the bondholders.

It appears, therefore, that all of the property purchased with the proceeds of this vast debt, except the Capitol and Hermitage, has gone into the hands of the Federal Government, the Bondholders and the Railroad
Companies, while the State has nothing but the debt and 1380
the obloquy resulting from her inability to pay it. The amount realized from the public property in Tennessee by the Federal Government can only be approximately estimated. The net earnings of the Louisville and Nashville Road for the year ending in June, 1865, largely exceeded $2,000,000. For the same period, for some months after, and for nearly two years before, the General Government was operating all the other roads of

1381 the State, and took all the profits, besides removing public property amounting in value to nearly $2,000,000.

All of this property and its profits had been put in pledge by the State as the primary security for the payment of the bondholder, and at last, whatever injury the bondholder has sustained, resulted from the injustice of the Federal Government in refusing to pay what was justly due for the property and profits pledged to the bondholder and appropriated by it.

1382 The obvious equities as to the State debt proper, are: First, the funded war interest ought to be expunged and all other funded interest. Second, all payments upon the war interest ought to be credited upon the principal at their value at the time of payment. Third, where funded at a greater rate of interest than the contract originally bore, the original rate ought to be restored. Fourth, where interest has been paid at a greater rate than the original contract, the excess ought to be credited upon the principal at its then value.
1383 Fifth, as the debt, at the time of its creation, was payable in gold or silver, and as, by Federal legislation, the State has been deprived of the opportunity to pay inthe cheaper metal, the State ought to be allowed the difference between the market value of gold and silver.

So much of the State debt proper as is owned by the Federal Government ought to be entirely rejected, until it is willing to pay the State the money justly due her. The bonds loaned the Agricultural Bureau ought to be embraced in the settlement of the primary debt of the
1384 State. A settlement of this branch of the debt upon these principles of justice will be right and ought to command the approval of all.

The next branch of the public debt in order of merit is that of the ante-war bonds issued to insolvent railroads, turnpike and plank road companies. All the equities existing as to the State debt proper obtain as to this, and in addition the whole loss of the iron appropriated by the Federal Government upon which

these bondholders had a lien, ought not in justice to 1385
be thrown upon the State, but as a matter of right, those bondholders ought to have an assignment to them by the State of the claim, if they have confidence in the ability and willingness of the General Government to pay a just debt.

As to that branch of the debt comprising the bonds issued to solvent railroad companies, it is not probable any adjustment of it can be made until the question of lien is settled. If the decision is in favor of the roads,
the adjustment will be with the bondholders, and if in 1386
favor of the bondholders the adjustment will be with the companies.

As to that part of the debt embracing the post-war bonds, no part of it should be settled now, or hereafter, only in so far as the bonds were issued, sold and used in conformity to law.

The State is able to provide for the first branch of the debt when adjusted, and it ought to be done now. It is probable an investigation will disclose the ability
of the State to provide for the second branch, and if 1387
so, it ought to be done, but no more ought to be attempted than can certainly be accomplished. Prudent and cautious steps will lead to satisfactory results, but if more is attempted than can certainly be accomplished, the result will necessarily be disastrous.

If an adjustment is made the coupons ought not to be made receivable for taxes. The demand for this condition implies a want of confidence in the integrity of the State, and ought for that reason to be rejected.
But as a matter of principle the State should never 1388
consent to put her sovereignty, which she holds in trust for the welfare of the whole people, in pledge for debt. Famine or pestilence may befall and cut off revenue, and then it will happen to us as it has elsewhere, where this demand was conceded: that the public schools will be closed, and the administration of the Government paralyzed in all of its functions, for the want of necessary means. If an adjustment is made, however,

1389 certain sources of revenue may be set apart for the payment of interest. If any part of the debt is adjusted, the bonds ought to be payable after five years, at the option of the Government, so as to give the opportunity to take up the bonds, or refund them at a lower rate of interest, if opportunity offers.

If any plan of adjustment is adopted, it ought to be submitted to the people for ratification or rejection at the ballot-box, and if it is approved by the people at the polls, the Legislature will be convened, if neces-
1390 sary, for the purpose of enacting it into a law. That pledge has been made to the people, and it ought to be respected. If disregarded upon any ground, it will only afford occasion for distrust, and insure the ultimate defeat of any adjustment made. As the history of our State debt shows that in every contest with the bondholder and railroad companies on one side, and the tax-payers on the other, that the tax-payers have gone down, it is not remarkable that they demand the right to protect themselves.

1391 The fact that a great variety of opinion exists as to this vexed question of the State debt, and that mutual concession alone can lead to a successful result, is appreciated and with an earnest desire that a satisfactory solution may be reached, these suggestions are submitted for your consideration.

1392

Request to Associate Justice. 1393

I, NOAH N. SWAYNE, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Sixth Circuit do on account of my absence and other sufficient causes—deem it advisable that the Circuit Courts of the United States for the several districts in the State of Tennessee shall be held by the Honorable William Strong, also an associate Justice of said Supreme Court, and Circuit Justice for the Third Circuit, and I do hereby request him to hold said 1394 Circuit Courts in and for said several districts in the State of Tennessee from and after this date until the second Monday of October next. And otherwise during the time named to exercise all and singular the powers of a Circuit Justice in said districts.

In witness whereof I have hereunto set my
hand and seal this 16th day of June,
A.D. 1879.

NOAH H. SWAYNE, 1395
Associate Jus. Sup. Ct. U. S.

June 16th, 1879.

I accept the foregoing request and consent to hold the Courts as requested.

W. STRONG, *J.*

1396

1397
UNITED STATES CIRCUIT COURT,

MIDDLE DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS
vs. } 2458.
NASHVILLE & DECATUR R. R. Co.

1398
SAME
vs. } 2462.
L. & N. & GT. S. R. R. Co.

SAME
vs. } 2469.
1399
N. & D. R. R. Co.

In the above causes upon motion of defendants and on cause shown, the Court is pleased to order that the complainant be allowed sixty days from this date in which to take his proof in chief, and defendants are allowed sixty days after the expiration of said sixty days in which to take their proof in rebuttal. But then the sixty days allowed the defendants in which to take
1400 their proof shall begin at any day upon which complainant may notify them or their solicitors that his proof in chief is closed, and the thirty days allowed the complainant in which to take his proof in rebuttal shall begin at any day upon which defendants may notify him or his solicitors that their proof is closed. Five days notice of time and place to be served on parties or their solicitors shall be sufficient to take depositions without regard to distance.

Notice to Defendants to serve answers to Motions. 1401

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS, on behalf of the holders of Tennessee bonds, issued to the LOUISVILLE & NASHVILLE RAILROAD COMPANY, 1402

versus — In Equity.

THE LOUISVILLE, NASHVILLE & GREAT SOUTHERN RAILROAD COMPANY *et al.* 1403

THE SAME, on behalf of the holders of Tennessee bonds, issued to the CENTRAL SOUTHERN RAILROAD COMPANY,

versus — In Equity.

THE NASHVILLE & DECATUR RAILROAD COMPANY *et al.* 1404

1405

The Same, on behalf of the holders
of Tennessee bonds issued to the
TENNESSEE & ALABAMA
Railroad Company,

versus

The NASHVILLE & DECATUR
Railroad Company *et al.*

In Equity.

1406

To **Edward Baxter**, Esq.

Sir :

Complainant notifies defendants to serve his solicitor three days before the hearing or file with the Clerk of the Court five days before the hearing of the pending motions in these causes, any answering papers that defendants intend to submit to the Court in order that complainant may prepare his papers in rebuttal if need be. 1407

Dated July 15th, 1879.

E. L. ANDREWS,
GEORGE HOADLY,
Solicitors for Complainants.

1408

Amendments to Prayers of Bill. 1409

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS, on behalf of the holders of Tennessee bonds, issued to the CENTRAL SOUTHERN RAILROAD COMPANY, 1410

versus

THE NASHVILLE and DECATUR RAILROAD COMPANY *et al.*

THE SAME, on behalf of the holders of Tennessee bonds, issued to the TENNESSEE and ALABAMA RAILROAD COMPANY, 1411

versus

THE NASHVILLE and DECATUR RAILROAD COMPANY *et al.*

1412 On 24th page at the end of the first paragraph "And, may it please your Honors, to grant unto your orator such interlocutory and final orders of injunction as may be requisite to protect the said mortgage estate pending this litigation, and for the due and proper purposes of this proceeding."

Dated July 18th, 1879.

E. L. ANDREWS,
GEORGE HOADLY,
Solicitors for Complainants.

1413 **Order to Marshal for Adjournment.**

UNITED STATES CIRCUIT COURT,

MIDDLE DISTRICT OF TENNESSEE.

To the United States Marshal, for the Middle District of Tennessee:

Sir:

You are hereby directed to adjourn the United
1414 States Circuit Court, for the Middle District of Tennessee, from the commencement of the adjourned Term on the 5th day of August until the 18th day of August, 1879, at ten o'clock A. M.

W. STRONG, *J.*

July 21st, 1879.

Order Assigning Time for Hearing.

1415 UNITED STATES CIRCUIT COURT,

MIDDLE DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the LOUISVILLE & NASHVILLE RAILROAD COMPANY,

1416 *versus*

THE LOUISVILLE, NASHVILLE & GREAT SOUTHERN RAILROAD COMPANY.

1417

CALVIN AMORY STEVENS, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the TENNESSEE & ALABAMA RAILROAD COMPANY,

versus

THE NASHVILLE & DECATUR RAILROAD COMPANY *et al.* 1418

CALVIN AMORY STEVENS, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the CENTRAL SOUTHERN RAILROAD COMPANY, 1419

versus

THE NASHVILLE & DECATUR RAILROAD COMPANY *et al.*

Now comes the complainant and presents the rocords of these causes, and by his counsel, Edward L. Andrews, Esq., moves that the hearing of these causes and of the pending proceedings therein be appointed to be had on a day certain. 1420

It is hereby Ordered, That the above-named causes and the pending proceedings therein be and the same are hereby set down for hearing on the eighteenth day of August, 1879, at 10 o'clock A. M., in the United States Court House in the City of Nashville.

W. STRONG, *J.*

July 21st, 1879.

1421 **Renewed Offers to Admit Answers.**

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

CALVIN AMORY STEVENS, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the LOUISVILLE & NASHVILLE RAILROAD COMPANY, 1422

versus — In Equity.

THE LOUISVILLE, NASHVILLE AND GREAT SOUTHERN RAILROAD COMPANY *et al.* 1423

THE SAME, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the CENTRAL SOUTHERN RAILROAD COMPANY, 1424

versus — In Equity.

THE NASHVILLE and DECATUR RAILROAD COMPANY *et al.*

1425

The Same, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the TENNESSEE and ALABAMA Railroad Company,

versus — In Equity.

The NASHVILLE and DECATUR Railroad Company *et al.* 1426

To Edward Baxter, Esq.

Sir :

Please take notice that the offers and admissions made before Commissioner DeLancey, in New York City, on the taking of the deposition of complainant, are hereby renewed for the purpose of the hearing of the above-named causes, ordered to be had by Mr. Justice Strong on 18th of August, prox. The complainant intends hereby to obviate any occasion for the taking of testimony by the respondents to prove any matters of fact set up in their answers. 1427

You are hereby further notified that complainant will expect to proceed with the trial and final hearing of the causes at the time mentioned in the order of the Presiding Justice of the Sixth Circuit.

Dated July 22d, 1879.

E. L. ANDREWS, 1428
GEORGE HOADLY,
Solicitors for Complainant.

1429 The supplemental answer of the Nashville & Decatur
Railroad Company and of the Louisville & Nashville
Railroad Company (sued by the name of the Louisville
& Nashville & Great Southern Railroad Company) to
the bill of complaint filed by Calvin Amory Stevens in
the United States Circuit Court for the Middle District
of Tennessee, in Equity No. 2464 on the Rule docket of
said Court.

These defendants further answering say, that since
their original answer was filed in this case, the complainant
1430 Stevens has given his deposition, and from the
matter and manner of his answers upon cross-examination,
defendants are satisfied and so charge that complainant
for some time prior to filing his bill in this case
was engaged in the New York market in hunting out
some of such of the Tennessee State bonds as were loaned
to the Central Southern and other Railroad Companies,
and in order to get them has been buying Tennessee
bonds on the market at ruinous rates of discount, in
fact at less than forty per cent. of their par value, and
1431 after selecting out such of them as had been loaned to
such Railroad Companies as he desired to sue, selling
the others for such price as he could get. That with
the same view he has been exchanging Tennessee bonds
which had not been loaned to Railroads for others
which had been, paying one or two per cent. for the
exchange.

That at the time he was making these transactions he
well knew that the Nashville & Decatur Railroad Company
had paid off the entire debt of the Central
1432 Southern Railroad Company to the State of Tennessee,
in 1871, and denied all liability either to the State or to
the bondholders for the bonds loaned said Company. If
therefore complainant is the owner or holder of any
bonds loaned by the State of Tennessee to said company,
which these defendants do not admit but deny,
they aver and charge that instead of being a *bona fide*
holder thereof as he represents in his bill, he procured
at least a portion of them with full notice of respond-

ent's defenses against them; that he is in fact a mere 1433
speculator and is seeking, in alliance with certain confederates, whose operations he refused to disclose, to make a profitable and inequitable speculation by setting up a lien upon respondent's railroads to the extent and effect of compelling them to pay the same debt twice over. Respondents submit that a Court of Conscience ought not to tolerate such reckless gambling upon the rights of those who have acted in good faith. They therefore desire to make and rely upon this defense as an objection to complainant's right to maintain 1434
his suit at all, and at all events to limit any possible right of recovery to the amount he may have paid, with interest. His right to recover anything, however, being expressly denied. Further answering, respondents submit that the construction of the Act of Feb'y 11, 1852, insisted upon by the complainant, which obligates the Central Southern Railroad Company or the Nashville & Decatur Railroad Company as their successors to pay the holders thereof the bonds of the State of Tennessee, loaned to said Central Southern Railroad 1435
Company, but upon which bonds the names of either of said companies nowhere appears, and after the company have, under the working of the scheme provided by the Act under which the bonds were issued fully paid the State for the bonds originally loaned to them, so as to make the bonds originally loaned clearly payable by the State, as its own proper debt, without any recourse or claim on its behalf against the company in respect thereof, is, in substance and effect, an attempt to charge the company as guarantor or surety for the 1436
State debt; and respondents aver that at the time of the passage of the said Act of February 11, 1852, as well as for many years prior thereto, it was and it ever since has been the statutory law of the State of Tennessee, that no action shall be brought whereby to charge the debt upon any special promise to answer for the debt, default or miscarriage of another, or upon

1437 any agreement or contract which is not to be performed
within the space of one year from the making thereof,
unless the promise or agreement upon which said
action shall be brought, or some memorandum or note
thereof, shall be in writing and signed by the party to
be charged therewith, or some other person by him
thereto lawfully authorized; and that at all such times
there was in existence a statutory law of the State of
New York of substantially similar purport and of like
effect. And respondents say that the transactions of
1438 receiving the State bonds by the Central Southern Railroad
Company upon loan thereof to them by the State
under the Act of February 11, 1852, and the amendments
thereof respectively, took place in the State of
Tennessee, and the negotiation disposal and transfers
of said bonds by said railroad companies took place
either in Tennessee or in the State of New York; and
respondents set up and claim the benefit of the statutes
above referred to by said States respectively, commonly
called the Statutes of Frauds, by way of defence
1439 against the complainant's attempt on behalf of himself
and other Tennessee State bondholders, to charge
respondents or either of them, or their property with
liability for the State bonds originally loaned to the
Central Southern Railroad Company, for which loan
their successors, the Nashville and Decatur Railroad
Company, have duly and fully paid and satisfied the
State; and respondents say that neither they nor the
Central Southern Railroad Company, or either of them
ever made any such promise or agreement in writing,
1440 nor any note or memorandum thereof, either themselves
or by an authorized agent, and never made or assumed
in any way any such obligation or undertaking, nor
any promise or undertaking whatever to complainant,
or to any holder of any of the State bonds loaned to
the Central Southern Railroad Company to guarantee
or become responsible for, or to make payment of or
to subject their railroad or any of their property to
liability for, either the principal or interest, or any

part thereof, or any of such State bonds, and they 1441
insist that no such obligation or responsibility can, under the circumstances aforesaid, be implied or deduced from anything contained in said Act, and, moreover, such a construction of the Act would be in violation of the Constitution of the State of Tennessee, referred to in the original answer as prohibiting special or partial legislation. Respondents further insist that if any agreement or contract whatever was made, either by the Central Southern Railroad Company, or either
of these respondents, it not only rested exclusively in 1442
parol, but it was also not to be performed within the space of one year from the making thereof, and therefore upon that ground is within the Statutes of Frauds aforesaid. Further answering, respondents willl show in relation to bonds of the State of Tennessee loaned to the Central Southern Railroad Company that the persons to whom they were originally negotiated in most instances did not come into communication with said Company, nor at all know them in the transaction, nor
know that the bonds had been loaned to them, nor that 1443
they had ever had anything to do with the same. The bonds were either payable "to bearer," using those words, or they were payable to blank or order, leaving the blank unfilled, so as to make the bonds in effect payable to bearer, or if the blank was filled, it was the name of some one other than the railroad Company, and by such person endorsed in blank. Experience had shown that straight bonds of the State of Tennessee had sold for more in the New York market than bonds
of railroad companies guaranteed or endorsed by the 1444
State. This fact, among others, had led to a complete change in the internal improvement system of Tennessee, as evidenced by the Act of February 11, 1852, under which the State, instead of being surety or guarantor of the railroad companies as she had been under the system immediately preceding that Act, became the principal and only debtor to the bondholders and became the only creditor of the railroad companies for the

1445 debts created by the loan to them of State bonds by the State. The bonds being expressly, or in effect, payable to bearer, and at that time worth their face value in specie, were received by the companies from the State as equivalent to the amount of money called for by their face; they were chiefly sold in open market in New York, through brokers or bankers whose agency for the railroad companies was not disclosed, and they were negotiated as simply and purely State bonds, without any security other than the faith and
1446 credit of the State; and the subsequent dealing in said bonds were all on the same basis and understanding.

Further answering, respondents show that now, and when the bill in this case was filed, the price of Tennessee State bonds was much lower than in 1871, when the Nashville and Decatur Railroad Company paid off their debt to the State of Tennessee, as stated in the original answer, and therefore if complainant should obtain the decree he seeks, respondents will have been very greatly prejudiced by his laches, even if the State should restore
1447 to respondents, the bonds and coupons which the Nashville & Decatur Railroad Company paid to the State in discharge of their indebtedness, Respondents further show that under the act of the Legislature of Tennessee authorizing the same, the coupons which matured prior to 1874, upon bonds which had been loaned by the State to railroad companies, including those loaned to the Central Southern Railroad Company have all or nearly all been funded into new bonds of the State by those who now hold them, or by those under whom
1448 the present holders have derived title, that in such funding the original coupons were surrendered to the State and cancelled; and new bonds were received for the old coupons, without any discrimination in respect to the different railroad companies to whom had been originally loaned the bonds to which had belonged such funded coupons, so that one of the new bonds if for coupons upon bonds which had been loaned to several different railroad companies without any separation or

discrimination, and likewise coupons from other State 1449
bonds issued for other purposes of the State; and if
complainant is the owner of any bonds of the State of
Tennessee loaned to the Central Southern Railroad
Company, which respondents deny, the coupons maturing thereon prior to 1874, were funded by him or
those under or through whom he claims. Respondents
further answering to the allegations of the bill imputing fraud, wrongful conduct or impropriety of any
kind to any of the persons who may have been instrumental in seeking or obtaining the passage of the Acts 1450
of February 25, 1860, and January 2, 1870, or either of
them, or to any of the railroad companies, in respect of
their acts and proceedings under or in virtue of such
acts, or either of them, say that it is true that during
the late civil war, the railroad companies did not generally pay the interest on the amounts of the bonds
issued to them, and after the war they still continued
in great part, in default in making the payments due
by them to the State on account of such interest. And
the State of Tennessee, during the same period like- 1451
wise had been and was in default in paying the interest on its bonds, and the market value of the State
bonds had fallen greatly, and the value and market
price of the State bonds had become and was very
much depreciated, such depreciation varied greatly
and with wide fluctuations, the market price at times
being considerable below and at other times considerable above fifty per cent. And respondents say that
the events of the war had inflicted enormous
losses upon the State of Tennessee, and upon its 1452
people; and besides and apart from the depreciation of
the Railroad interests and claims, had greatly diminished the resources and means of the State and the ability
which it would otherwise have possessed to meet its
obligations to its creditors; and that the Railroad
Companies which had respectively received the loans
of the State bonds under the Internal Improvements
Acts, had, by the events of the war, sustained enormous

1453 losses and depreciation, of their property; and the events consequent upon the war, had also greatly depreciated the comparative business and profitableness of their railroads; and the roads themselves and their bridges and other appurtenances and equipments and materials had, amidst the conflict of the contending armies, and under the spirit of lawlessness thereby engendered, become greatly dilapidated, wasted, injured, and to a large extent, destroyed, so as to require very large expenditures for rehabilitating them and
1454 putting them in suitable condition for profitable working, and to make them efficient instruments for affording the facilities for travel and transportation required by the wants of the community; and in the then condition of the companies, precuniarily depressed, financially embarrassed and discredited, it was, as to the best of the roads, extremely difficult and to many of them utterly impossible to obtain the funds or means necessary for such expenditures, without relief in respect of some portion of the indebtedness with which
1455 they were loaded; and as to some of the poorer roads, it was impossible to extricate them from embarrassment or make them serviceable instruments of travel or transportation under their then organization or indebtedness, or to make them available for practical value or working, short of selling them out for what they might be made to bring by enforcement of the liens against them. And at the time of said legislation, 1869—70, the bonded debt of the State of Tennessee, including the accumulations of unpaid interest, had become
1456 swollen to some forty-five millions of dollars, or thereabout, which was greatly beyond the practical ability of the State to meet or then satisfactorily deal with, unless some particular measures of relief could be adopted; and it was then greatly desired by the State of Tennessee, and among its people, that some means should be devised for largely reducing the amount of its indebtedness, and bringing the same within such compass as that it might be enabled as speedily as

possible to resume payment of its interest. And under 1457
this state of things it was regarded not merely by the said railroad companies, but by the governing authorities of the State of Tennessee, and by the people of the State generally, as desirable that some plan should be adopted for reducing the State debt by inducing the Railroad Companies, or such of them as could possibly command or obtain the means for doing so, to pay up and satisfy at once and without waiting for the full maturing of their legal obligations in that behalf, the
amounts of their indebtedness to the State, for the 1458
amounts of their State bonds which had been loaned to them under the Internal Improvement Acts, and that in order to afford adequate inducements to the Railroad Companies so to do, as likewise to bring it practically within their power to command or obtain the means therefor, such payments should be received from them in State bonds, so as to give to them the benefit of the discounts at which purchases of such bonds by them in the market might be practicable, and so as to
permit the transfer by substitution of the statutory 1459
mortgage of the State for securing the Company's indebtedness to it, to such parties as could be induced to advance the money wherewith to purchase the State bonds to effect the settlement of the Company's indebtedness, and it was to give effect to such plain scheme, and not for any purpose fraudulent, wrongful, or in anywise inequitable, that the said Legislation of 1869-70 was enacted. It was at the time considered by all parties whose legal or equitable interests were con-
cerned in respect thereof, and as defendants conceive 1460
and now insist, rightly so considered, that such plan and scheme, and the execution thereof, in so far as such execution should prove practicable, would be beneficial to all concerned and unjust to no one.

Respondents further answering show that the Central Southern Railroad is ample security for the full amount of all the bonds and coupons loaned to said Company by the State of Tennessee, which are now outstanding, 1461 if complainant and the other holders thereof should succeed in obtaining the decrees which he seeks.

Said Railroad is an indispensable link in the line from Louisville, Ky., to Montgomery, Ala., and as such will at all times command at least three times the amount of the State bonds and interest now outstanding. And even regarded as a separate road it is worth in the market to-day at least twice the amount of said bonds and interest, and the annual net earnings thereof would pay far more than the interest annually to 1462 accrue on said bonds. There can therefore be no possible danger to complainant and no necessity for the issuance of an injunction or the appointment of a Receiver to interfere with the present skillful and prudent management of the road. And having fully answered, respondents pray to be hence dismissed with their reasonable costs.

RUSSELL HOUSTON,
SMITH ALLISON,
ED. BAXTER,
1463 *Solicitors for Respondents.*

STATE OF KENTUCKY, }
County of Jefferson, }

Personally appeared before me, Clerk of the U. S. Circuit Court for the District of Kentucky, the undersigned, E. D. Standiford, President of the Louisville and Nashville Railroad Company, and stated that the facts set forth in the foregoing answer are true to the best of his knowledge, information, remembrance and 1464 belief; and he also affixed the seal of said Company to said answer.

[Seal of L. & N. R. R. Co.]
E. D. STANDIFORD.

Subscribed before me, this }
2d day of August, 1879. }

SAM. B. CRAIL,
Clerk U. S. Circuit Court.
[Seal of Court.] Ky. Dist.

STATE OF TENNESSEE, }
Davidson County. } 1465

Personally appeared before me, Jno. H. Baskett an acting Notary Public for said County, State aforesaid, the undersigned J. W. Sloss, President of the Nashville and Decatur Railroad Company, and stated that the facts set forth in the foregoing answer are true to the best of his knowledge, information, remembrance and belief; and he also affixed the seal of said Company to said answer.

1466

[Seal of Company.]

J. W. SLOSS,
President of the Nashville and Decatur Railroad Company.

Subscribed before me, this }
4th day of August, 1879. }

JNO. H. BASKETT,
[Notarial Seal] *Notary Public.*

MIDDLE DISTRICT OF TENNESSEE, 1467

I, Louis T. Baxter, Clerk of the Circuit Court of the United States for the district aforesaid do hereby certify, that the foregoing is a true copy of the supplemental answer of the Nashville and Decatur Railroad Company, and of the Louisville and Nashville Railroad Company to the bill of complaint filed by Calvin Amory Stevens in the United States Circuit Court for said district, in Equity No 2,464 on the Rule Docket of said Court.

1468

Witness my hand, and the seal of said Court at Nashville, this 6th day of August, 1879.

LOUIS T. BAXTER,
Clerk.

[Seal] By E. R. CAMPBELL,
D. Clerk.

1469 *The answer of the Nashville and Decatur Railroad Company to the petition filed by Calvin Amory Stevens on the 9th day of July*, 1879, *in the cases of said Stevens against these respondents in the U. S. Circuit Court for the Middle District of Tennessee. In Equity.*

It is true that these causes have been at issue by the
filing of answers and general replications since the day
of 1879. The Bill and answer will show upon
their face the character of proof which the issues will
1470 require. Defendant's proof will consist largely of
statutes, extracts from Legislative Journals, from Governors'
Messages, Reports of Committees, and of
Comptrollers, and of other public documents, but it
will also embrace much oral testimony of witnesses to
show the contemporanous construction, placed upon the
internal improvement system of Tennessee by the railroad
companies, the State and the bondholder from
1852, until the filing of the bill in these causes, and to
show that said construction was to the effect that the
1471 lien upon the railroads belonged exclusively to the
State of Tennessee and not to the bondholders. The oral
proof will also go to show the amount and character of
expenditures that have been made upon the Nashville
and Decatur Railroad since the debt for the State bonds
loaned to that company has been paid, and the amount
of money that has been borrowed to raise the means to
pay off said debt, the bonds that have been issued by
said company with the mortgages executed to secure
them, and the circumstances under which the holder of
1472 such bonds acquired them. In a word respondents expect
by documentary or oral proof to sustain all the
material averments and denials contained in their original
and supplemental answers on file in these causes,
which answers are here referred to and made part of
this answer.

Respondent also expects to be able to contradict many of complainant's statements in his deposition lately taken in this case. The witnesses by whom the

oral testimony will be given are scattered over the 1473
country, at great distances from Respondent's chief office, some of them live in New York, some in Philadelphia, Atlanta, Georgia, Knoxville, Chattanooga, Sparta, Triune, Franklin, Clarksville, Jackson, Memphis and other points in Tennessee and some in Louisville, Ky.

Respondent's solicitor has by correspondence and otherwise been diligently engaged in ascertaining their whereabouts and the points upon which their testimony
will be material so as to facilitate the taking of their de- 1474
positions and expects to be able to procure their testimony within the time allowed defendants by the Honorable U. S. Circuit Court at Nashville.

Respondents have no knowledge of any request being made by complainant's solicitor of defendant's solicitor, on or about April 29, for an agreement to close the testimony at an early day, to wit, the latter part of May. Such request may have been made, but if so, has been forgotten. It was, of course, declined, be-
cause it was impossible for respondents to get ready by 1475
the time indicated.

It is true that about May 29 defendants were satisfied that the ninety-day rule would be insisted on, and on the next day they notified complainants' solicitor that they would move for an extension of time to take testimony. But upon discovering that their time was not so near out as they supposed, and hoping to be able to take their proof within the time left to them, they retracted the notice. It is true that complainant
applied for and obtained an order adjourning the 1476
Court to the 4th August, but this order was made on June 14, the same day on which defendants obtained an order from the same judge extending their time for taking proof. A copy of said order is here filed, marked Exhibit A, and prayed to be taken as part hereof. Said order was obtained in open Court, complainants' counsel being present and opposing. Respondents have relied on the validity of said order,

1477 and insist upon the time thereby granted to them, because it is absolutely necessary to enable them to prepare their case properly, and with safety. Respondents felt that complainant ought, in justice and fair play, to take his testimony before they took theirs, but he held his own deposition back until July 5, 1879, when the taking of it was begun in New York, and when Respondents' solicitor arrived there to cross-examine he was served with notice of motion for receiver and injunction, and offers to stipulate, thus having 1478 the time and attention which they would otherwise have devoted to preparing the case for trial, diverted by complainant to the consideration of interlocutory but important side issues.

Respondents positively deny that they have been guilty of any tardiness or obstructive delay. No case approaching these cases in magnitude or importance has been brought to trial in the U. S. Circuit Court at Nashville in the short space of time that has intervened since these bills were filed. Even in ordinary 1479 cases the ninety-day rule has never been enforced in general practice, and has been universally extended with liberality.

Respondents deny that they became participants in the act of the Legislature of Tennessee, quoted in the bill, or that they are in anywise responsible, legally or morally, for any of its provisions, or for any of the expressions contained in the message of the Governor of Tennessee referred to therein. Some of the railroad companies of Tennessee did propose to surrender their 1480 exemptions to aid in settling the State debt on any terms that would be satisfactory to the State creditors. The reasons which actuated them are fully set out in a letter dated March 18, 1879, written to Governor Marks by E. D. Standiford and other railroad presidents. Respondents insist that the object of said railroad companies as therein set forth were praiseworthy in the highest degree, and such as no bondholder can justly complain of. A copy of said letter is here filed and

made part hereof as Exhibit B. If the Legislature or 1481
the Governor are actuated by other or different motives the railroad companies cannot control them, and, therefore, are not responsible for them. Respondents deny that they have conspired with the State to defeat the bondholders of an opportunity to obtain a hearing, but expect to give them a hearing as speedily as they can do so, with due regard to the proper preparation of their cases.

It is true that one of the questions involved in these
causes was argued before the Supreme Court of the 1482
United States in April, 1878, it being incidentally involved in a suit between parties other than holders of Tennessee Internal Improvement bonds. The L. & N. R. R. Co. prepared a petition to be filed in that case, the object of which was to show that the question was not properly presented in that case, one of the solicitors of said company was present and heard the argument, but was not allowed to argue the case orally, and did not prepare any brief. The case was afterwards
terminated in some way as respondents are informed, 1483
but how respondent never knew.

Respondents deny that the assets of their company are being wasted or misapplied. Their revenues are applied first to paying interest and sinking fund on bonds of the company secured by the mortgages referred to in their original answer, and the balance is applied to paying dividends to their stockholders. This cause has been pursued for the last six or eight years with the full knowledge of Complainant and
other holders of Tennessee bonds who have stood by 1484
and allowed the community to invest their money in said bonds and stock, relying upon it as a safe investment, and in many cases as their only source of income. From Complainant's own showing he is in no possible danger. The net earnings for a single year would more than pay more than all the bonds loaned by the State which are now outstanding, and would pay nearly five times the amount that would accrue in any

1485 one year upon said bonds. The railroad is being managed by skillful and careful officers who are constantly and permanently improving its condition and business.

Whatever effect it may have upon the final hearing complainant's laches is a sufficient answer to an application for a Receiver and injunction, to divert the revenues from a channel in which he has allowed them to run for years, where others have acted upon his acquiscence and where no possible ultimate injury can be done him by refusing these interlocutory and extraordinary meas-
1486 ures as this property would be ample security for any decree that he can possibly hope to obtain. Respondents assure the Court that they will proceed with all diligence in the preparation of their cases for hearing, and they submit that the extraordinary process and powers of the Court ought not to be employed to force them into a hearing before they can possibly get ready.

ED. BAXTER,
Solicitor for Defts.

1487 State of Tennessee, }
Davidson County. }

Personally appeared before me James W. Sloss, President of the Nashville and Decatur Railroad Company, and made oath that the facts stated in the foregoing answer are true to the best of his knowledge, information and belief.

J. W. SLOSS,
President A. and D. R. R. Co.

1488

Sworn to and subscribed before }
me, this 4th August, 1879 }

JNO. H. BASKETT,
Notary Public,
[Notarial Seal. Davidson County, Tenn.

1489

Exhibit B.

NASHVILLE, March 8, 1878.

To His Excellency, ALBERT S. MARKS,
Governor of Tennessee.

SIR: The undersigned representatives of the railroad companies named below, believe that a settlement of the debt of the State of Tennessee, upon terms satisfactory to the people and the creditors of the State, would, by a restoration of confidence and credit, greatly promote the agricultural, mechanical and commercial prosperity of the people and enhance the value of their property. 1490

By far the largest proportion of the railroad property in this State, in fact about two-thirds of it, is as the companies confidently believe, protected by charter exemption from all taxation whatever, but being desirous of aiding in such settlement, and thereby relieving the State and her people from their present embarrassment, the said companies agree, in the event of such settlement, that their said property shall in the future be subject to State taxation for state purposes, as and upon the same assessments and rates as the property of private citizens. 1491

They further believe that should the State debt be settled, such will be the improvement in value of property in this State that a fair assessment upon the railroad property, including that portion of it now for the first time subject to taxation, will produce an annual fund of between eighty and one hundred thousand dollars, which, with a fifty-cent tax upon the other property of the State, will enable her to meet with ease the expenses of the State Government, including her charitable institutions and school fund, together with 1492

1493 their interest upon her bonded debt, and a proper sinking fund for its ultimate redemption.

E. D. STANDIFORD,
President Louisville and Nashville Railroad Co.
C. M. McGHEE,
Vice-President East Tennessee, Virginia and Georgia Railroad Company.
E. M. COLE,
President Nashville, Chattanooga and St. Louis Railway.
1494
C. M. M. McGHEE,
Vice President Memphis and Charleston Railroad Company.
C. M. M. McGHEE,
President Nashville and Ohio Railroad Company.

MIDDLE DISTRICT OF TENNESSEE

I, LEWIS T. BAXTER, Clerk of the Circuit Court of the United States for the District aforesaid, do hereby 1495 certify that the foregoing is a true copy of the answer of the Nashville & Decatur Railroad Company, together with the Exhibits, to the bill of complaint filed by Calvin Amory Stevens, in the United States Circuit Court for the District in Equity No. as the Rule Docket of said Court.

Witness my hand and the seal of said Court at Nashville, this 6th day of August, 1879.

1496 [L.S.] LEWIS T. BAXTER,
Clerk,
By E. R. CAMPBELL. D. C.

The supplemental answer of the Nashville and Decatur Railroad Company, and of the Louisvile and Nashville Railroad Company (sued by the name of the Louisville and Nashville and Great Southern Railroad Company), to the bill of complaint filed by Calvin Amory Stevens, in the United States Circuit Court, for the Middle District of Tennessee, in Equity No. 2458, on the Rule Docket of said Court: 1497

These defendants, further answering, say that since 1498
their original answer was filed in this case, the complainant,
Stevens, has given his deposition, and from
the matter and manner of his answer upon cross-examination,
defendants are satisfied, and so charge, that
complainant, for some time prior to filing his bill in
this case, was engaged in the New York Market, hunting
out some of such of Tennessee State bonds as were
loaned to the Tennessee and Alabama and other railroad
companies, and in order to get them, has been buying
Tennessee bonds on the market at various rates of discount, 1499
in fact, at less than forty per cent. of their par
value, and after selecting out such of them as had been
loaned to such railroad companies he desired to sue,
selling the others for such prices as he could get.
That with the same view, he has been exchanging Tennessee
bonds which has not been loaned to railroads,
for others which had been, paying one or two per cent.
for the exchange. That at the time he was making
these transactions, he well knew that the Nashville and
Decatur Railroad Company had paid off the entire 1500
debt of the Tennessee and Alabama Railroad Company
to the State of Tennessee in 1871, and denied all liability
either to the State or to the bondholders, for the
bonds loaned said company. If, therefore, complainant
is the owner or holder of any bonds loaned by the
State of Tennessee to said company, which these defendants
do not admit, but deny, they aver and charge,
that instead of being a *bona fide* holder thereof, as he

1501 represents in his bill, he procured at least a portion of them with full notice of respondents' defences against them; that he is, in fact, a mere speculator, and is seeking, in alliance with certain confederates, whose operations he refused to disclose, to make a profitable and inequitable speculation, by setting up a lien upon respondents' railroad to the extent and effect of compelling them to pay the same debt twice over. Respondents submit that a Court of conscience ought not to tolerate such reckless gambling upon the
1502 rights of those who have acted in good faith. They therefore desire to make and rely upon this defence as an objection to complainant's right to maintain his suit at all, and at all events to limit any possible right of recovery to the amount he may have paid, with interest. His right to recover anything being expressly denied. Further answering. respondents submit that the construction of the Act of February 11, 1852, insisted upon by complainant, which obligates the Tennessee and Alabama R. R. Co., or the
1503 Nashville and Decatur R. R. Co., as their successors, to pay to the holders thereof, the bonds of the State of Tennessee loaned to said Tennessee and Alabama R. R. Co., but upon which bonds the name of either of said companies nowhere appears, and after the company had under the working of the scheme provided by the Act under which the bonds were issued fully paid the State for the bonds originally loaned to them, so as to make the bonds originally loaned clearly payable by the State as its own proper debt, without
1504 resource or claim on its behalf against the company in respect thereof is in substance and effect, an attempt to charge the company as guarantee or surety for the State's debt; and respondents aver that at the time of the passage of the said Act of February 11, 1852, as for many years prior thereto, it was, and it ever since has been the statutory law of the State of Tennessee, that no action shall be brought, whereby to charge the defendant upon any special promise to answer for the

debt, default or miscarriage of another, or upon any 1505
agreement or contract which is not to be found within
the space of one year from the making thereof, unless
the promise or agreement upon which such action shall
be brought, or some memorandum or note thereof shall
be in writing and signed by the party to be charged
therewith, or some other person by him thereto lawfully
authorized ; and that at all such times there was
in existence a statutory law of the State of New York,
of substantially similar purport and of like effect ; and
respondents say that the transactions of receiving the 1506
State bonds by the Tennessee and Alabama Railroad
Company upon loan thereof to them by the State
under the Act of February 11, 1852, and the amendments
thereof respectively took place in the State of
Tennessee, and the negotiations, disposal and transfers
of said bonds by said railroad company took place,
either in Tennessee or in the State of New York ;
and respondents set up and claim the benefit
of the Statutes above referred to of said States respectively,
commonly called the Statutes of Frauds, by way 1507
of defence against the complainants' attempt on behalf
of himself and other Tennessee State bondholders to
charge respondents, or either of them, or their property,
with liability for the State bonds originally loaned
to the Tennessee and Alabama Railroad Company, for
which loan their successors, the Nashville and Decatur
Railroad Company have duly and fully paid and satisfied
the State, and respondents say that neither they or
the Tennessee and Alabama Railroad Company, nor
either of them, ever made any such promise or agree- 1508
ment in writing, nor any note or memorandum thereof,
either themselves or by any authorized agent, and
never made or assumed in any way any such obligation
or undertaking, nor any promise or undertaking
whatever to complainant, or to any holder of any of
the State bonds loaned to the Tennessee and Alabama
Railroad Company to guaranty or become responsible
for, or to make payment of or to, subject

1509 said railroad or any of their property to liability for
either the principal or interest, or any part thereof,
of any such State bonds, and they insist that no such
obligation or responsibility can, under the circumstances
aforesaid, be implied or deduced from anything
contained in said Act, and, moreover, such a
construction of the Act would be in violation of the
Constitution of Tennessee referred to in the original
answer as prohibiting special or partial legislation.
Respondents further insist that if any agreement or
1510 contract whatever was made either by the Tennessee
and Alabama Railroad Company or either of these respondents,
it not only vested exclusively in parol, but
it was also not to be performed within the space of one
year from the making thereof, and therefore upon that
ground is within the Statute of Fraud aforesaid.

Further answering, respondents will show, in relation
to bonds of the State of Tennessee loaned to the Tennessee
and Alabama Railroad Company, that the persons
to whom they were originally negotiated in most
1511 instances did not come into communication with said
company, nor at all known them in the transaction,
nor knew that the bonds had been loaned to them, nor
that they had ever had anything to do with the same.
The bonds were either payable "to bearer,"
using those words, or they were payable to
blank or order, leaving the blank unfilled,
so as to make the words in effect payable
to bearer, or if the blank was filled it was with
the the name of some one other than the Railroad
1512 Company and by such persons endorsed in blank—experience
has shown that straight bonds of the State of
Tennessee sold for more in the New York market than
bonds of railroad companies guaranteed or endorsed by
the State. This fact among others had led to a complete
change in the Internal Improvement System of
Tennessee as evidenced by the Act of February 11,
1852, under which the State instead of being surety or
guarantor of the Railroad Companies as she had been

under the system immediately preceeding that Act 1513
became the principal and only debtor to the bondholders and became the only creditor of the railroad companies for the debt created by the loan to them of State bonds by the State. The bonds being expressly or in effect payable to bearer, and at that time worth their face value in specie, were received by the companies from the State as equivalent to the amount of money called for by their face, they were chiefly sold in open market in New York through brokers or
bankers whose agencies for the railroad companies was 1514
not disclosed, and they were negotiated as simply and and purely State bonds without any security other than faith and credit of the State, and the subsequent dealings in said bonds were all in the same basis and understanding.

Further answering, respondents show that now and when the bill in this case was filed the price of Tennessee bonds was much lower than in 1871, when the Nashville and Decatur Railroad Company paid off their
debt to the State of Tennessee as stated in their original 1515
answer, and therofore if complainant should obtain the decree he seeks, respondents will have been, very greatly prejudiced by his laches even if the State should restore to respondents the bonds and coupons which the Nashville and Decatur Railroad Company paid to the State in discharge of their indebtedness.

Respondents further show that under the Acts of the Legislature of Tennessee authorizing the same, the coupons which matured prior to 1874, upon bonds
which had been loaned by the State to Railroad Com- 1516
panies, including those loaned to the Tennessee and Alabama Railroad Company, all or nearly all been funded into new bonds of the State by those who now hold them or by those under whom the present holders have derived title. That in such funding the original coupons never surrendered to the State and cancelled, and new bonds were received for the old Coupons without any discrimination in respect

1517 to the different railroad companies, to whom had been
originally loaned the bonds, to which had belonged
such funded coupons, so that one of the new bonds is
for coupons upon bonds, which had been loaned to
several different railroad companies without any seperation
or discrimination, and likewise, coupons upon
other State bonds issued for other purposes of the
State. And if Complainant is the owner of any bonds
of the State of Tennessee loaned to the Tennessee and
Alabama Railroad Company, which respondents deny
1518 the coupons maturing thereon prior to 1874, were
funded by him or those under or through whom he
claims. Respondents further answering to the allegations
of the bill imputing fraud, wrongfull conduct or
impropriety of any kind to any of the person, who may
have been instrumental in seeking or obtaining the
passage of the Acts of February 25th, 1869, and January
2d, 1870, or either of them or to any railroad companies,
in respect of their Acts and proceedings under, or in
virtue of such Acts, or either of them say that it is true,
1519 that during the late civil war the railroad companies
did not generally pay the interest on the amounts of
the bonds issued to them, and after the war they still
continued in great part in default, in making the payments
due by them to the State on account of such
interest, and the State of Tennessee during the same
period likewise had been and was in default in paying
the interest on its bonds, and the market value of the
State bonds had fallen greatly, and the value and
market price of the State bonds had become and was
1520 very much depreciated, such depreciation varied greatly
and with wide fluctuations, the market price at times
being considerably lower, and at other times considerably
above fifty per cent. And Respondents say that
the events of the war had inflicted enormous losses
upon the State of Tennessee and upon its people, and
besides, and apart from the depreciation of its railroad
interests, and claims had greatly diminished the
resources and means of the State, and the ability which

it would otherwise have posssessed to meet its obligations to its creditors, and that the railroad companies which had respectively received the loans of the State bonds under the Internal Improvement Acts, had by the events of the war, sustained enormous losses and depreciations of their property, and the events consequent upon the war had also greatly depreciated the comparative business and profitableness of their railroads and the roads themselves and their bridges and other appurtenances and equipments and materials had amidst the conflict of the contending armies and under the spirit of lawless,ness thereby engendered, become greatly delapidateds wasted, injured, and to a large extent destroyed so as to require very large expenditures for rehabilitating them and putting them in suitable condition for profitable working and to make them efficient instruments for affording the facilities for travel and transportation required by the wants of the community, and inthe then condition of the companies pecuniarily depressed, financially embarrassed and discredited it was as to the best of the roads extremely difficult and to many of them utterly impossible to obtain the funds or means necessary for such expenditures without relief in respect to some portion of the indebtedness with which they were loaded and as to some of the poorer roads it was impossible to extricate them from embarrassment or make them serviceable instruments of travel or transportation under their then organization and indebtedness or to make them available for practical value or working short of selling them out for what they might be made to bring by enforcement of the liens against them, and at the time of the said legislature of 1869-70, the bonded debt of the State of Tennessee including the accumulation of unpaid interest had become swollen to some forty-five millions of dollars or thereabouts, which was greatly beyond the practical ability of the State to meet then or satisfactorily deal with unless some particular measure

1525 of relief could be adopted and it was then
greatly desired by the State of Tennessee, and
among its people that some means should be devised
for largely reducing the amount of its indebtedness,
and bringing the same within such compass as that
it might be enabled, as speedily as possible, to resume
payment of its interest. And under this state of
things, it was regarded, not merely by the said railroad
campanies, but by the governing authorities of the
State of Tennessee, and by the people of the State gen-
1526 erally, as desirable that some plan should be adopted
for reducing the State debt, by inducing the railroad
companies, or such of them as could possibly command
or obtain the means for doing so to pay up and satisfy
at once, and without writing for the full maturity of
their legal obligations in that behalf the amounts of
their indebtedness to the Sate for the amounts of the
State bonds which had been loaned to them under the
Internal Improvement Acts, and that in order to offer
adequate inducements to the railroad companies so to
1527 do, as likewise to bring it practically within their power
to command or obtain the means therefor, such pay-
ments should be received from them in State bonds so
as to give to them the benefit of the discounts at which
purchases of such bonds by them in the market might
then be practically. And so as to permit the transfer
by substitution of the statutory mortgage of the State
for securing the companies indebtedness to it, to such
parties as could be induced to advance the money
wherewith to purchase the State bonds, to effect the
1528 settlement of the company's indebtedness and it was to
give effect to such plan and scheme and not for any pur-
pose fraudulent wrongful or in anywise inequitable that
the said legislation of 1869-70 was enacted. It was at
the time considered by all parties whose legal or equit-
able interests more concerned in respect thereof was as
defendants conceive and now insist rightly so consider-
ed that such plan and scheme and the execution there-
of in so far as such execution should prove practicable

would be beneficial to all concerned and unjust to no 1529 one.

Respondents further answering show that the Tennessee and Alabama Railroad is ample security for the full amount of all the bonds and coupons loaned to said Company by the State of Tennessee whicn are now outstanding if complainant and the other holders thereof should succeed in obtaining the decrees which he seeks. Said railroad is an indispensable link in the line from Louisville, Ky., to Montgomery, Ala., and as such will at all times command at least three times 1530 the amount of the State bonds and interest now outstanding. And even regerded as a separated road it is worth in the market to-day at least twice the amount of said bonds and interest and the annual net earnings thereof would pay far more than the interest annually to accrue on said bonds. There can therefore be no possible danger to complainants and no necessity for the issuance of an injunction or the appointment of a receiver to interfere with the present skillful and prudent management of the road. 1531

And having fully answered Respondents pray to be hence dismissed with their reasonable costs.

RUSSELL HOUSTON,
SMITH and ALLISON,
ED. BAXTER,
Solivitors for Respondents.

1532

STATE OF KENTUCKY, }
County of Jefferson. }

Personally appeared before me, Saml. B. Crail, Clerk of the U. S. Circuit Court for the District of Kentucky, the undersigned E. D. Standiford, President of the Louisville and Nashville Railroad Company, and stated, that the facts set forth in the foregoing answer are true to the best of his knowledge, infirmation remembrance

1533 and belief, and he also affixed the seal of said Company to said answer.

[SEAL] E. D. STANDIFORD.

Subscribed before me, this 2d day of August, 1879, }

[SEAL] SAML. B. CRAIL,
U. S. Circuit Court, Ky. Dist.

1534 STATS OF TENNESSEE, }
County of Davidson. }

Personally appeared before me, Jno. H. Baskette, Notary and acting Notary Public for said J. W. Sloss, President of the Nashville and Decatur Railroad Company, and states, that the facts set forth in the foregoing answer are true to the best of his knowledge, information, remembrance and belief, and he also affixed the seal of said Company to said answer.

1535 J. W. SLOSS,
President of the Nashville and Decatur Railroad Company.

Subscribed before me, 4th day of August, 1879, }

JNO. H. BASKETTE,
Notary Public.

1536 MIDDLE DISTRICT OF TENNESSEE.

I, Lewis T. Baxter, Clerk of the Circuit Court of the United States for the district as aforesaid, do hereby certify, that the foregoing is a true copy of the Supplemental Answer of the Nashville and Decatur Railroad Company and of the Louisville and Nashville Railroad Company, sued by the name of the Louisville and Nashville and Great Southern Railroad Company) to the bill of complaint filed by Calvin Amery Stevens in the United States Circuit Court for said District in Equity No. 2458 on the Rule Docket of said Court. 1537

Witness my hand and the seal of said Court at Nashville, this 6th day of August, 1879.

[SEAL.] LEWIS T. BAXEER, *Clerk*.

By E. R. CAMPBELL, D. C.

1538

UNITED STATES CIRCUIT COURT,

SIXTH JUDICIAL CIRCUIT,

MIDDLE DISTRICT OF TENNESSEE.

In Equity. 1539

CALVIN AMORY STEVENS, on behalf of the holders of Tennessee bonds issued to the CENTRAL SOUTHERN RAILROAD COMPANY,

versus

THE NASHVILLE and DECATUR RAILROAD COMPANY. 1540

1541

Calvin Amory Stevens, on behalf of the holders of Tennessee bonds issued to the TENNESSEE and ALABAMA Railroad Company,

versus

The NASHVILLE and DECATUR Railroad Company.

1542

Notice and admissions of Supplemental answer.

To the Solicitors of the Respondents:

Gentlemen:

The complainant, reserving all rights of exceptions to the pleading of the supplemental answer in the above-named suits, and to all irrelevant and impertinent mat- 1543 ters therein contained, hereby offers, for the purpose of the final hearing of these causes at an early day, to admit the truth of the following matters of fact set forth in said suplemental answers, in order that delays for the taking of testimony and the certification of documents may be obviated:

First.—As to the portions of the answer which are based upon the testimony given by complainant on cross-examination, it is consented that the case stand upon the testimony upon which the respondents pur- 1544 port to base those portions of their answers.

Second.—It is stipulated that the statement of the law of Tennessee and of New York, in reference to the Statute of Frauds, correct, but without any concession of its applicability to this case. It is admitted that the negotiations, disposal and transfers of said bonds by these railroad companies took place either in Tennessee or the State of New York.

It is admitted that the persons to whom the bonds of 1545
the State of Tennessee loaned to the Alabama and Central
Southern Railroad Companies were originally negotiated,
in most instances did not come into communication
with said companies ; that the bonds were either
payable to bearer, using those words, or they were payable
to blank or order, leaving the blank unfilled, or if
the blank was filled, it was with the name of some one
other than the railroad company, and by such person
endorsed in blank.

It is further admitted that experience has shown that 1546
straight bonds of the State of Tennessee sold for more in
New York than bonds of railroad companies guaranteed
or endorsed by the State, that this fact among other
things had led to a complete change in the Internal
Improvement system of Tennessee, as evidenced by the
Act of February 11th, 1852, under which the State in
stead of being surety or guarantor of the railroad companies,
(on the face of bond) as she had been under the
system immediately preceding that Act, became the
only debter whose name appeared on the face of the 1547
bond itself, that the bonds were chiefly sold in the
open market in New York through brokers or bankers.

It is further stipulated, that now and when the bill
in this case was filed, the price of Tennessee bonds was
much lower than in 1871, when the Nashville and Decatur
Railroad Company delivered bonds of the State
of Tennessee to the State.

It is further stipulated, that under the Acts of the
Legislature of Tennessee authorizing the same, the
coupons matured prior to 1874 upon bonds which had 1548
been loaned by the State to railroad companies including
those loaned to the Tennessee and Alabama and
Central Southern Railroad Companies, all or nearly
all, had been funded into new bonds of the State by
those who now hold them, or by those under whom the
present holders have derived title. That in such event
the original coupons were surrendered to the State and
cancelled and new bonds were received for the old cou-

1549 pons without any discrimination in respect to the different railraod companies to whom had been originally loaned the bonds to which had belonged such funded coupons, so that some of the new bonds is for coupons upon bonds which had been loaned to several different railroad companies, without any separation or discrimination, and likewise coupons upon other State bonds issued for other purposes of the State; that the coupons maturing upon the complainant's bonds prior to 1874, were funded by him or those under him or
1550 through he claimed.

Complainant admits that after the war the depreciation in Tennessee State bonds varied greatly and with wide fluctuations, the market price at times being considerably lower and at other times considerably above fifty per cent. and that the events of the war had inflicted enormous losses upon the State of Tennessee and upon its people, and besides apart from the depreciation of its railroad interests and claims had greatly diminished the resources and means of the
1551 State and the ability which it would otherwise have possessed to meet its obligetions to its creditors, and that the railroad companies which had respectively received the loans of the State bonds under the Internal Improvement Acts had by the events of the war sustained enormous losses and depreciation of their property, and the events consequent upon the war had also greatly depreciated the comparative business and profitableness of their railroads, and the roads themselves and their bridges and their appurtenances
1552 and equipments and materials, had amidst the conflict of the contending armies and under the spirit of lawlessness thereby engendered, become greatly dilapidated, wasted, injured and to a large extent destroyed so as to require very large expenditures for rehabilitating them and putting them in suitable condition for profitable working and to make them efficient instruments for affording facilities for travel and transportation required by the wants of the community and in

the then condition of the companies pecuniarily depressed, fiinancially embarrassed and discredited it was as to the best of the roads, extremely difficult,and to many of them utterly impossible to obtain the funds or means necessary for such expenditures without relief in respect to some portion of the indebtedness with which they were loaded and as to some of the poorer roads it was impossible to extricate them from embarrassment or make them serviceable instruments of travel or transportation under their organization or indebtedness, or to make them available or of practical value or working, short of selling them out for what they might be made to bring by the enforcement of the liens against them, and that at the time of the said legislation of 1869–1870, the bonded debt of the State of Tennessee, including the accumulations of unpaid interest, had become swollen to some forty-five millions or thereabouts, which was greatly beyond the practical ability of the State to meet or then satisfactorily to deal with, unless some particular measures of relief could be adopted, and it was then greatly desired by the State of Tennessee and among the people that some means should be devised for largely reducing the amount of its indebtedness and bringing the same within such compass as that it might be enabled, as speedily as possible, to resume payment of its interest, and under this state of things it was regarded not merely by the said railroad companies but by the governing authorities of the State of Tennessee, and by the people of the State generally, as desirable that some plan should be adopted for reducing the State debt by the railroad companies, or such of them as could possibly command or obtain the means for doing so by delivering State bonds to the State so as to give them the benefit of the discount at which purchases of such bonds by them in the market might be practicable,

(Complainant shows by the public documents of the State of Tennessee that some of her ablest

1557 lawyers and wisest statesmen did not admit that the above plan could be carried out legally or properly except by delivery by the companies respectively of the bonds issued to them respectively and which were liens upon their roads.)

Complainant further admits, that the Tennessee and Alabama Railroad and the Central Southern Railroad are ample security for the full amount of all the bonds and coupons loaned to said company by the State of Tennessee, which are now outstanding; that said Railroad is an indispensable link in the line from Louis-
1558 ville, Kentucky to Montgomery, Alabama, and as such will at all times command at least three times the amount of the State bonds and interest now outstanding, and even regarded as a separate road, it is worth in the market to-day at least twice the amount of said bonds and interest, and the annual net earnings thereof, would pay far more than the interest annually to accrue on said bonds.

Those portions of the supplemental answer, which
1559 consist of admissions of the statements in the bill, it has not been deemed necessary to reiterate in this stipulation. The same may be said of allegations in this supplemental answer, which are reiterations of statements in the previous answers, and which have been already stipulated for at previous stages of this litigation.

The above stipulation carefully avoids conclusions of law and inferences and deductions which can be more properly drawn by the Court from the facts.

1560

E. L. ANDREWS,
GEORGE HOADLY,
Solicitors, and of Counsel for Complainants.

A Bill to be entitled an Act to systematize, the Railroad Sinking Fund paid to the Board of Sinking Fund Commissioners. 1

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That all railroad companies in the State of Tennessee, now required by law to pay a sinking fund of two per cent. on the bonds loaned and endorsed by the State, the Companies and Board of sinking fund commissioners, shall hereafter be bound by the following terms and conditions. 2

SEC. 2. That every railroad company that have or may hereafter receive the loan of bonds or the endorsement of the State on the company's bonds, shall five years from the date of receiving such loan or endorsement from the State—on the first day of January, after the reception of such bonds shall pay into the Board of sinking fund commissioners, two and one half per cent. on the amount of bonds received from the State, either by endorsement or loan. 3

SEC. 3. Be it further enacted, That the fund so paid in by the railroad company, shall be immediately invested by the sinking fund commissioners in the character and description of bonds loaned or endorsed for said company, and each company that have received endorsed bonds of the State, the Board of sinking fund commissioners shall invest the sinking fund paid in by said company in such endorsed bonds as have been endorsed or may hereafter be endorsed by the State for such company. 4

SEC. 4. Be it further enacted, That the Board of sinking fund commissioners, shall immediately on receiving the sinking fund from the companies purchase the bonds as directed in this act, and such bonds shall

5 immediately in the presence of the Board be cancelled, by cutting out the name of the Governor of the State, and also the name of the Secretary of State, and each coupon attached shall be completely defaced, so as to render its payment impossible, and such cancelled bonds shall be filed and preserved in the office of the Secretary of State.

SEC. 5. Be it further enacted, That the Board of sinking fund commissioners shall keep a well bound book, in which there is original and duplicate receipts, 6 and they shall give to the President of the railroad company a receipt for the amount of money received, retaining a duplicate receipt in the office of the Comptroller, and shall also execute a receipt to the President of such road or roads the amount of bonds purchased for said company with the number and character of bonds so purchased, and also retain a duplicate receipt of the same, and the Presidents of the roads shall have said receipt spread at length on the books of the company.

7 SEC. 6th. Be it further enacted, That this act only repeals so much of the act creating a sinking fund for railroad companies, as may conflict with the same. That this act take effect from and after its passage.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of the Senate Bill No. 89, entitled, "an act to systematize the Railroad Fund paid to the Board of sinking fund commissioners," with endorsements as upon the original, the original of which is now of record in my office.

8 In testimony whereof, I have hereunto subscribed my official signature; and, by order of the Governor, affixed the great seal of the State of Tennessee, at the Department, in the city of Nashville, this 30th day of July A. D., 1879.

[L. S.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE. } 9
Davidson County. }

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify that CHAS. N. GIBBS, whose genuine signature appears to the foregoing certificate is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand at office, in Nashville, 10
this 31st day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that JNO. C. FERRISS, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole 11
presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

Witness my hand, and seal of said Court,
[L.S.] at office, this 31st day of July, 1879.

J. R. MCCANN,
Clerk.

Endorsement: 12

(A)

S. B. 89.

A bill to be entitled an act to systematise the railroad sinking fund paid by the company for the liquidation of the State debt.

Passed on 1st Reading.
Nov. 8th, 1859.

Ref'd to Internal Improvement Committee.

Nov. 8, '59.

A bill in lieu adopted and amended, and said bill in lieu passed 2d Reading.

Nov. 30th, 1859.

Newman.

REPORT OF THE COMMITTEE ON INTERNAL IMPROVEMENTS.

The Committee on Internal Improvements beg leave to report that they have had under consideration Senate Bill No. 89, entitled An Act to systematize the railroad sinking fund paid by the companies for the liquidation of the State debt, and beg leave to report a bill in lieu thereof, which is herewith submitted, entitled An Act to provide for the equalization and investment of the sinking fund on the bonds issued to and endorsed for railroads in this State.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a report of the Committee on Internal Improvements, submitting a bill in lieu of Senate Bill No. 89, with endorsements as on the original, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my official signature; and by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 30th day of July, A. D. 1879.

[L.S.]

CHAS. N. GIBBS,
Secretary of State.

STATE OF TENNESSEE, } 17
Davidson County. }

I, JNO. C. FERRISS, sole presiding Judge of the County Court of said County, do hereby certify, that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

18

Given under my hand at Office, in Nashville
this 31st day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. MCCANN, Clerk of the County Court of said County, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate, is now, and was, at the time of signing the same, sole presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law. 19

Witness my hand and seal of said Court, at office, this 31st day of July, 1879. } 20

[L.S.] J. R. MCCANN,
Clerk.

Endorsment:

(B)

Report of Committee on Internal Improvements.

Entered Nov. 30, '59.

21 An Act *to provide for the equalization and investment of the Sinking fund on the Bonds issued to or endorsed for Railroads in this State.*

Section 1. Be it enacted by the General Assembly of this State, that the money or bonds that has heretofore or may be paid by cities or railroad companies in this State to the Sinking Fund Commissioners by the 1st day of January, 1860, together with the accruing interest thereon to that date, shall be passed directly to the credit of the party having so paid the same, 22 and be a release to said party for that amount on the debt due by them to the State of Tennessee.

Section 2. Said bonds shall all be cancelled by said Commissioners, and if endorsed bonds of any railroad company shall be cancelled as hereinafter provided for the cancellation of State Bonds, and shall be delivered over to said company or corporation taking the President of said company, or the officer of such corporation receipt for the same, which receipt shall be filed, 23 and a copy of the same placed upon a book which the said Commissioners shall keep for that purpose; if State bonds they shall be cancelled and filed in the office of the ~~Comptroller~~ Secretary of State, as hereinafter provided.

Section 3. That after the first day of January, 1860, all railroad companies or city corporations who have or may hereafter receive the bonds of the State or its en- 24 dorsement of their own bonds, under the General Internal Improvement law of this State, or any other law, shall be required to pay two and one-half per cent. per annum as a sinking fund on the amount of the bonds so issued or endorsed by the State for said company or corporation, to be paid in equal instalments on the 1st days of April and October, five years after the date of ~~the issuance of~~ said bonds, and annually thereafter.

SECTION 4. All bonds issued during any one year shall be dated on the first day of January, of that year. 25

or corporations
SECTION 5. Said companies ^ may pay said sinking fund in cash, or in the like character of
by the State
bonds that may have been issued or endorsed ^ for said company at ~~par~~ their face or par value.

SECTION 6. If paid in money the Commission-
~~State of Tennessee~~ 26
ers shall invest it immediately in the bonds ^ ~~of the same character as those issued to or endorsed for the company paying the same. If they are endorsed bonds, they shall be cancelled and returned to~~
the
~~said company as heretofore provided.~~ of ~~If~~ ^ State,
and shall have the same
~~bonds they shall be~~ cancelled and filed as heretofore provided. Such bonds are to be of the same
those
character as ^ issued to such company or corporation. 27

SECTION 7. The Sinking fund when paid in all cases shall be passed directly to the credit of said com-
or corporation or corporation
pany ^ and be a release to said company ^ from that amount due by them to the State. The commissioners shall issue a receipt to each com-
or corporation
pany ^ for such payment, retaining a duplicate in a well bound book kept for that purpose.

~~SECTION 8. No railroad company shall be required to pay interest on an amount larger than that actual due to the State after deducting the amount that has been paid on the sinking fund from the original amount issued to or endorsed by the State for said company.~~ 28

SECTION 8. Each and every railroad com-
or city corporation
pany ^ shall provide the interest semi-annually as now provided by law on the amount of bonds unpaid at the time said interest falls due, ~~who~~ and not on the original

29 amount issued to or endorsed by the State for said company, as heretofore provided.

SECTION 9. The Comptroller of the State shall keep a regular account against each company ^ or corporation, charging them with the amount of bonds originally issued to or endorsed for said company ^ or corporation by the State and crediting them by the amount of Sinking fund paid, and shall furnish the Treasurer of the State
30 a statement of the amount due by each company ^ or corporation on the 1st June and December of each year, that he may know how much interest each company ^ or corporation has to pay.

SECTION 10. The Commissioners of the Sinking fund shall cancel all bonds of the State as soon as paid in or purchased, by cutting out the Governor or Secretary of State name, and so defacing each coupon that it cannot by possibility be used or circulated, and shall file the same in Secretary of State office.

31 SECTION 11. This law shall be in full force from and after its passage and shall repeal all laws in conflict with it, but shall not be so construed as to *otherwise* effect any law on the subject of the Sinking fund, or the payment of interest due on State or endorsed bonds.

I, C. N. GIBBS, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of a Bill No. 89, entitled "An Act to equalize and regulate the Sinking Fund, and for its investment, with interlin-
32 niations, erasures and endorsements as on the original; the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 30th day of July, A.D. 1879.

[L. S.]

CHAS. N. GIBBS,
Secretary of State.

State of Tennessee, } 33
Davidson County. }

I, **Jno. C. Ferriss**, sole presiding Judge of the County Court of said County, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that said attestation is in due form of law, and by the proper officer.

Given under my hand, at office in } 34
Nashville, this 31st day of July, }
1879. }

JNO. C. FERRISS,
County Judge.

State of Tennessee, }
Davidson County. }

I, **J. R. McCann**, Clerk of the County Court of said County, do hereby certify that **Jno. C. Ferriss**, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole 35 presiding Judge of the County Court in and for said County, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

Witness my hand and seal of said Court at
office, this 31st day of July, 1879.

J. R. McCANN,
Clerk.

Endorsement: 36

(C)

No. 89.

A bill entitled an Act to equalize and regulate the sinking fund and for its investment.

Adopted in lieu of Bill No. 89, and

Passed on 2d Reading.

Nov. 30, '59.

Passed on 3d Reading.

Dec. 1st, 1859.

Be it enacted by the General Assembly of the State of Tennessee, That the Act of 1855-6, providing for a sinking fund to be annually set apart by the several railroad companies in this State, who may have received or may hereafter receive bonds of the State, to aid in the construction of their several roads under the provisions of the Act of 1851-2, and the Acts amendatory thereto, at the expiration of five years from the issuance or endorsement of their several bonds, be so amended that the sinking fund shall hereafter be paid, in equal instalments, semi-annually on the first days of April and October five years after the date of said bonds, and annually thereafter.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of House Bill in lieu of Senate Bill No. 89, to amend the Act of 1855-6, to provide for a sinking fund, &c., with endorsements as on the original, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 30th day of July, A. D. 1879.

[L.S.]

CHAS. N. GIBBS,
Secretary of State.

State of Tennessee,
Davidson County.

I, Jno. C. Ferriss, sole presiding Judge of the County Court of said county, do hereby certify that Chas. N. Gibbs, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, Secretary of State for the State of Tennessee, duly elected and qualified as such, and that

said attestation is in due form of law, and by the 41
proper officer.

Given under my hand at office, in Nashville,
this 31st day of July, 1879.

JNO. C. FERRISS,
County Judge.

STATE OF TENNESSEE, }
Davidson County. }

I, J. R. McCANN, Clerk of the County Court of said 42
county, do hereby certify that Jno. C. Ferriss, whose genuine signature appears to the foregoing certificate, is now, and was at the time of signing the same, sole presiding Judge of the County Court in and for said county, duly elected and commissioned and qualified as such. And that said attestation is in due form of law.

Witness my hand and seal of said Court, at
office, this 31st day of July, 1879. 43

[L.S.] J. R. McCANN,
Clerk.

Endorsement :

(E)

Bill in lieu of S. B. No. 89.

Johnson.

Adopted.

44
Caldwell moves to strike out from the date of the bonds and insert from the issuance of the bonds, which was rejected.

Senate non-concurs.

House recedes.

CHAPTER 419.

An Act *to Incorporate the Nashville and Northwestern Railroad Company.*

Be it enacted by the General Assembly of the Commonwealth of Kentucky.

§ 1. That an act to incorporate the Nashville and Northwestern Railroad Company, passed by the Legislature of the State of Tennessee, on the 22d day of January, 1852, together with the several amendments thereto, made by the said Legislature of the State of Tennessee, passed February 28th, 1852, and February 15th, 1854, in the words and figures as follows, viz:

Be it enacted by the General Assembly of the State of Tennessee.

§ 1. That for the purpose of establishing a communication by railroad between Nashville and the Mississippi river, beginning at Nashville and terminating on the Mississippi river in Obion County, the formation of a company is hereby authorized, which, when formed, shall be a body corporate by the name and style of the Nashville and Northwestern Railroad Company, and by the said corporate name shall be capable to buy, receive by gift, hold, sell and convey, real and personal estate as hereinafter provided, make contracts, sue and be sued, make by-laws, and do all other acts properly incident to a corporation, and necessary and proper to the transaction of the business for which it is incorporated, and to have and use a common seal, and the same to alter and destroy at its pleasure, and have perpetual succession of members.

§ 2. Books of subscription of thirty thousand shares

5 of the capital stock of said company, of one hundred
dollars each, shall be opened on the ——— and
shall be kept open for sixty days, between the hours
of ten o'clock in the morning and four o'clock in the
evening, of each of those days, at the following places,
and by the following commissioners, to wit : at Nashville,
Thomas Harding, Jacob McGavoch, L. Davidson,
——— Joslin, M. R. Cochrill, W. Dozier, H. Hollingsworth,
M. Barrow, W. Watkins, Samuel Watkins, D.
T. McGavoch, Willoughby Williams, West H. Hum-
6 phreys, A. W. Vanleer, Francis McGavoch, Daniel
Graham, John Harding, Charles Bosley, ——— Neuson,
——— Atkinson, Byrd Douglas, and Thomas
Sheron ; at Charlotte, Sylvester Finley, Robt. McNeilly,
Thomas K. Gribsly, John C. Collier, and Wm.
H. Napier; at Waverley, John Wiley, T. B. Gorin,
Robert McCreary, V. S. Allen, H. H. Marable ; at
Camden, William McCutchen, C. K. Wyley, W. P.
Morris, E. Perkins, and D. P. Hudson , at Paris, B. C.
Brown, J. W. Blanton, W. H. Thompson, J. C. Mc-
7 Neil, L. M. Tharp, and C. D. Venable ; at Dresden,
Wm. Gleeson, John A. Gardner, Collins McCutchen,
Jas. W. Hays, Alfred Gardner, and Wm. Snapp ; at
Troy, ——— Cochrane, P. Marberry, ——— Moffat,
W. S. S. Harris ; at Dover, A. W. Wall, Samuel Graham,
T. H. Atkins, Wm. B. Cherry, and J. M. Wall.

§ 3. The said commissioners, or any two of them, at
each of the places aforesaid, shall receive subscriptions
for stock in the said railroad company during the time
8 the said books are directed to be kept open, and on
each share so subscribed, shall demand and receive the
sum of five dollars in cash, or a note or check for the
same, without which the subscription shall be void.

§ 4. As soon as the time for receiving subscriptions, as aforesaid, shall have expired, the said commissioners shall respectively deposit all the money so received by them in some incorporated bank, redeeming its notes in specie, to the credit of the Nashville and

Northwestern Railroad Company, and subject to the 9
order of the President of the Board of Commissioners
hereinafter appointed, and shall also furnish a correct
list of all the subscribers to the said stock, with the
number of shares each subscriber has taken, to a board
of commissioners to be composed of the following persons: Thomas Harding, A. W. Vanleer, ——— Atkinson, ——— Neusom, B. Collier, Benj. Robertson,
John Wiley, T. B. Gorin, Thomas McNeiley, T. K.
Gribsly, S. Finley, T. Cooney, J. C. Currier, Wm.
W. Moody, John H. Dunlap, J. V. C. Adkins, J. 10
E. R. Ray, Em. Etheridge, J. W. Hays, A.
G. Holden, P. Marberry, W. U. Watson, Dr.
Head, Col. Wm. McCutchen, W. F. Dougherty,
B. B. Spicer, S. C. Pavatt and Jas. T. Dunlay, who
may establish rules to govern their proceedings, choose
their own President, and appoint such other officers
and agents as they may think proper; and who or a
majority of whom, shall meet at Nashville on the third
Monday of April next, ascertain the whole number of
shares taken in said company, and publish the same 11
in some newspaper printed in Nashville, on or before
the first Monday in May next; and if the number of
one thousand shares shall have been subscribed on
each of which there shall have been paid the sum of
five dollars, the Nashville and Northwestern Railroad
Company shall be regarded as formed, and thenceforth
and from the day of the closing of the books of subscription as aforesaid, the said subscribers to the stock
shall form a body corporate and politic, in deed and in
law, by the name and for the purpose aforesaid, and in 12
all things to be represented by the Board of Commissioners aforesaid, until the Board of Directors are
elected as hereinafter prescribed.

§ 5. If, on closing the books aforesaid, the number of one thousand shares shall not have been subscribed, then and in that case the said Board of Commissioners, by themselves or their agents, may receive subscriptions

13 until the number of one thousand shares be taken;
and whenever that number of shares shall be sub-
scribed, the company shall be considered as formed, as
having a corporate existence as aforesaid, and of which
notice shall be given as hereinbefore directed, and may
proceed to survey the route for the road, and make an
estimate of the cost of its construction; nevertheless,
no conclusive and binding location of the road shall be
made by the Board of Commissioners, but the same be
left to the determination of the first Board of Directors
14 chosen by the stockholders. And the said Board of
Commissioners may, by themselves or their agents, at
such times and places as they may think proper, and
upon such terms as to time and manner of payment as
they may deem expedient, receive additional subscrip-
tions until the number of ten thousand shares shall
have been subscribed, upon which the company may
be formed, and the subscribers shall thenceforth form
a body corporate as aforesaid; *Provided*, The same
shall be done on or before the first day of January,
15 1858; and for the residue of the original number of
thirty thousand shares, the said corporation, when or-
ganized, may in like manner receive additional sub-
scriptions.

§6. In case more than thirty thousand shares shall
have been subscribed on closing the books, when they
are first opened, the shares shall be reduced to that
number by deducting the surplus shares from the high-
est subscribers, placing them on equality of numbers
16 as far as can be done, and after such reduction, the
holders of the remaining shares shall form the com-
pany, and be interested therein, in proportion to the
number of shares which they may then respectively
hold.

§7. If, on closing the books on the first day of January, 1858, the number of ten thousand shares shall not have been subscribed, the money paid by each sub-

scriber shall be returned to him by the said Board of 17
Commissioners, after paying the expenses of opening the books, and of making a survey and map of the route and estimate of the cost of the road, which the said commissioners are hereby authorized to have made as soon as practicable.

§ 8. The affairs of said company shall be managed by a Board of Directors, to consist of fifteen, and who shall be chosen by the stockholders from their own
body, and a President of the company shall be 18
elected by the Director from their own members in such manner as the regulations of the corporation shall prescribe.

§ 9. As soon as the number of one thousand shares shall have been subscribed, it shall be the duty of the Commissioners appointed to declare the same, to appoint a time for the stockholders to meet in Nashville, and give the notice thereof by publication in some of the newspapers in Nashville, at which time and place
the stockholders in person, or by proxy shall proceed 19
to elect the Directors of the company, and to enact all such regulations, rules, and by-laws, as may be necessary for the government of the corporation and the transaction of its business.

The persons elected Directors at this meeting, shall serve for such period not exceeding one year, as the stockholders may direct; and at this day the stockholders shall fix on the day the subsequent election of
directors shall be held, and such elections shall 20
thenceforth be annually made. But if the day of annual election shall pass without any election of directors the corporation shall not thereby be dissolved, but it shall be lawful on any other day to hold and make such elections in such manner as may be prescribed by a by-law of the corporation.

§ 10. The Board of Directors may fill all vacancies

21 which may occur in it during the period for which their board shall have been elected, and in the absence of the president, may fill his place by electing a president *pro tempore.*

§ 11. All contracts and arrangements authenticated by the President of the Board, shall be binding on the company without seal, or such other mode of authentication may be used as the company by its by-laws may adopt.

22 § 12. The Board of Directors shall not exceed in their contracts the amount of the capital of the corporation, and of the funds which the company may have borrowed and placed at the disposal of the Board; and in case they shall do so, the President and Directors who may be present at the meeting at which such contract or contracts so exceeding the amount aforesaid shall be made, shall be jointly and severally liable for the excess both to the contractor or contractors and to the corporation: *Provided*, That any one may discharge 23 himself from such liability by voting against such contract or contracts, and causing said vote to be recorded on the minutes of the board, and giving notice thereof to the next general meeting of the stockholders.

§ 13. The said company shall have the exclusive right of transportation or conveyance or persons, goods, merchandise, and produce over said railroad by them to be constructed: *Provided*, That the cost of transportation or conveyance shall not exceed thiry-five cents per 24 hundred pounds on heavy articles, and ten cents per cubic foot on articles of measurement, for every hundred miles, and five cents a mile for every passenger: *And provided also*, That said company may, when they see fit, farm out their right of transportation on said road subject to the rates above mentioned.

§ 14. The Board of Directors may call for the payment of ninety-five dollars on each share of stock in

sums not exceeding ten dollars in every thirty days: 25
Provided, That twenty days notice be given of such call in at least one public newspaper of the State in which any of the stockholders may reside; and a failure to pay or secure to be paid, according to the rules of the company, any of the installments so called as aforesaid shall induce a forfeiture of the shares or shares on which default shall be so made, and all payments thereon, and the same shall vest in and belong to the company, and may be restored to the owner or owners
by the Board of Directors, if they deem proper, on the 26
payment of all arrears on such shares and legal interest thereon, or the Directors may waive the forfeiture after thirty days default, and sue the stockholder for the installments due at their discretion.

§ 15. The stock of said company may be transferred in such manner and form as may be directed by the bylaws of said corporation.

§ 16 The said company may, at any time, increase it
capital to a sum sufficient to complete said road and 27
stock it with everything necessary to give it full operation and effect, either by opening books for new stock, or by selling such new stock, or by borrowing money on the credit of the company, and on the mortgage of its charter and works, and the manner in which the same shall be done in either case shall be prescribed by the stockholders at a general meeting; and any State or any citizen, corporation or company of this or any other State or country, may subscribe for and hold
stock in said company with all the rights and subject 28
to all the liabilities of any other stockholder.

§ 17. The Board of Directors shall, once in every year at least, make a full report of the state of the company and its affairs to a general meeting of the stockholders, and oftener if directed by a by-law, and shall have power to call a general meeting of the stockholders when the Board may deem it expedient.

29 § 18. No person but a *bona fide* stockholder in his own right, of at least ten shares, which he shall have held at least three months previous to his election (except the first election) shall be president or a director of the company, nor shall any stockholder vote in person or by proxy at any general or other election (except the first) who shall not have held in his own right the shares on which he offers to vote, at least three months previous to such election.

30 § 19. Stockholders may vote in person or by proxy, and in the election of directors and in voting on all questions which come before a meeting of the stockholders, or which may be submitted to the decision of the stockholders in any other manner, the vote shall be taken according to the following scale, viz, each stockholder shall have one vote for each share he owns; *Provided*, That no individual, corporation or company shall be entitled to more than five hundred votes.

31 § 20. That said company may purchase, have and hold in fee or for a term of years, any lands, tenements and hereditaments, which may be necessary for said road or appurtenances thereof, or for the erection of depositories, store houses, houses for the officers, servants or agents of the company, or for workshops or foundaries to be used for said company, or for procuring timber, stones or any other materials necessary for the construction of the road or its appurtenances, or for effecting transportation thereon or for other purposes.

32 § 21. That said company shall have the right when necessary to construct the said road or any branch thereof, across or along any public road or water course; *Provided*, that the said road and the navigation of such water course, shall not be thereby obstructed.

§ 22. The said company may purchase, have and hold any bridge or turnpike road over which it may be ne-

cessary to pass, and when such purchase is made, to 33
hold the said bridge or turnpike road on the same terms
and with all the rights which belong to the individual,
individuals or corporation from which such purchase
may be made; *Provided*, that the said company shall
not obstruct any public road without constructing
another as convenient as may be.

§ 23. Where any lands or rights of way may be re-
quired by the said company for the purpose of con-
structing their road, and for want of agreement as to 34
the value thereof, or from any other causes the same
cannot be purchased from the owner or owners, the
same may be taken at a valuation to be made by five
commissioners or a majority of them, to be appointed
by the Circuit Court of the county where some part of
the land or right of way is situated, and the said com-
missioners before they act shall severally take an oath
before some Justice of the Peace, faithfully and im-
partially to discharge the duty assigned to them. In
making the said valuation, the commissioners shall take 35
into consideration the loss or damage which may occur
to the owner or owners of the land, in consequence of
the land being taken, or the right of way surrendered,
and also the benefit and advantage he, she or they may
receive from the erection or establishment of the rail-
road or works, and shall state particularly the nature
and amount of each, and the excess of loss and damage
over and above the benefit and advantage shall form
the measure of valuation of the said land or right of
way. The proceedings of said commissioners, accom- 36
panied with a full description of the said land or right
of way, shall be returned under the hands and seals of a
majority of the commissioners to the court from
which the commission issued, there to remain
a matter of record. In case either party to the
proceedings shall appeal from the valuation to the
next session of the Court granting the commission, and
give reasonable notice to the opposite party of such

37 appeal, the Court shall order a new valuation to be made by a jury, who shall be charged therewith in the same term, or as soon as practicable, and their verdict shall be final and conclusive between the parties unless a new trial shall be granted ; and the lands or right of way so valued by the commissioners or jury, shall vest in the said company in fee simple, so soon as the valuation may be paid, or when refused may be tendered to the extent of two hundred feet wide. Where there may be an appeal as aforesaid, from the valuation of
38 the commissioners of either of the parties, the same shall not prevent the works intending to be constructed from proceeding, but where the appeal is by the company requiring the surrender, they shall be at liberty to proceed with their works only on condition of giving to the opposite party a bond with good security to be approved by the Clerk of the Court where the valuation is returned, in a penalty equal to double the said valuation and interest in case the same be sustained ; and in case it be reversed, for the payment of the valuation
39 thereafter to be made by the jury and confirmed by the Court. *Provided*, That when the land cannot be had by gift or purchase the operations of the work are not to be hindered or delayed, during the pendency of any proceeding to assess its value as aforesaid, nor shall any injunction or supercedeas be awarded by any judge or Court to delay the progress of said work.

§ 24. In the absence of any contract with the said company in relation to lands through which the said
40 road may pass, signed by the owner thereof or by his agent, or any claimant or person in possession thereof, which may be confirmed by the owner, it shall be presumed that the land upon which the road may be constructed, together with a space of one hundred feet on each side of the centre of said road, has been granted to the company by the owner thereof, and the said company shall have good right and title thereto, and shall have, hold and enjoy the same as long as the same

be used only for purposes of the road and no longer, unless the person or persons owning the said land at the time that part of the road which may be on said land was finished, or those claiming under him, her or them, may apply for an assessment for the value of the said lands as hereinbefore directed, within five years next after that part of said road was finished ; and in case the said owner or owners, or those claiming under him, her or them, shall not within five years after the said part was finished, apply for such assessment, he, she or they shall be forever barred from recovering the said land, or having any assessment or compensation therefor. *Provided*, nothing herein contained, shall effect the right of *femmes covert* or infants, until two years after the removal of their respective disabilities.

§ 25. If any person shall intrude upon the said railroad or any part thereof, by any manner of use thereof or of the rights and privileges connected therewith, without the permission or contrary to the will of said company, he, she or they shall forthwith forfeit to the said company all the vehicles that may be intruded on said road, and the same may be recovered by suit at law, and the person or persons so intruding may also be indicted for misdemeanor, and upon conviction fined and imprisoned by any Court of competent jurisdiction.

§ 26. If any person shall wilfully or maliciously destroy, or in any manner hurt, damage or obstruct the said railroad, or any bridge or any vehicle used for or in the transportation thereon, such person or persons so offending, shall be liable to be indicted therefor, and on conviction, shall be imprisoned not more than six nor less than one month, and pay a fine of not less than twenty dollars, and shall be further liable to pay all expenses of repairing the same, and it shall not be competent for any person so offending against the provisions of this charter to defend himself by pleading or giving in evidence that he was the owner or agent, or

45 servant of the owner of the land where such destruction, hurt, damage, injury or obstruction was done, or caused at the time the same was caused or done.

§ 27. Every obstruction to the safe and free passage of vehicles on the said road, shall be deemed a public nuisance, and may be abated as such by an officer, agent or servant of the company, and the person causing such obstruction, may be indicted and punished for erecting a public nuisance.

46 § 28. The said company shall have the right to take at the storehouses they may establish, or next to their railroad, all goods, wares, merchandise and produce intended for transportation, prescribe the rules of priority and charge and receive such just and reasonable compensation for storage as they by rules may establish (which they shall cause to be published) or as may be affixed by agreement with the owner which may be distinct from the rates of transportation. *Pro-*
47 *vided*, That the said company shall not charge or receive storage on goods, wares or produce which may be delivered to them at their regular depositories for immediate transportation, and which the company may have the power of transporting immediately.

§ 29. The profits of the company, or so much thereof as the board of directors may deem advisable, shall, when the affairs of the Company will permit, be semi-annually divided among stockholders in proportion to the stock each may hold. 48

§ 30. The said company is hereby expressly prohibited from carrying on any banking operations, but may effect insurance on lives and property transported on the road.

§ 31. Whenever, in the construction of said road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the company to

construct said road across such road or way, as not to 49
impede the passage or transportation of persons or property along the same, or where it shall be necessary to pass through the land of any individual, it shall be their duty to provide for such individual a proper wagon way or ways across said road from one part of his road to the other.

§ 32. The said company shall possess such additional powers as may be convenient for the due and success-
ful execution of the powers granted in this charter, and 50
for the successful construction and management of the work.

§ 33. The president, directors, clerks, agents, officers and servants of said company, shall be exempt from military duty, except in cases of invasion or insurrection, and shall also be exempt from serving on juries and working on public roads.

§ 34. The company shall have full power and author-
ity to purchase and own such number of slaves as 51
shall be necessary for the construction of the said road and for keeping the same in repairs.

§ 35. If, by decree or otherwise, the said corporation shall be dissolved, the president and directors of said company are created trustees, with such powers only as may be necessary to collect the debts due the company, preserve the property, pay the debts, and distribute the property and effects of the company to those
who may be entitled thereto under the charter. 52

§ 36. The capital stock of said company shall be forever exempt from taxation, and the road, with all its fixtures and appurtenances, including workshops, warehouses and vehicles of transportation, shall be exempt from taxation for the period of twenty years from the completion of the road, and no longer.

§ 37. The railroad authorized by this act, shall be

53 commenced within three years after the passage of this act, and shall be finished within ten years thereafter, otherwise the charter hereby granted shall be void.

§ 38. Any individual or individuals, company or body corporate, with permission of the Legislature of this State, may hereafter construct branches to connect with the Nashville and Northwestern Railroad; and it shall be the duty of said company, when required, to receive on their road the full loaded freight cars from such
54 branches, and transport the same to their destination, and to return them without changing the loads thereof or charging for the transportation of the goods, wares, merchandise and produce therein, any greater rate of freight than they charge for similar goods, wares, merchandise and produce in their own cars; *Provided*, that the company shall not be compelled to receive said cars on their roads, unless they are constructed in the same manner and are of equal strength with their own cars, of which the engineer of the main road shall be
55 the judge; *and provided*, that the company shall not be required to receive any car from such branches without receiving payment for at least twenty miles transportation; *and provided, also*, that the said company shall be entitled, in all respects, to similar and equal privileges on such branches constructed to unite with their road, with the same restraints.

§ 39. That the Board of Commissioners of the Nashville and Northwestern Railroad, is hereby authorized and empowered to appoint three judges and two clerks,
56 for the purpose of holding an election for fifteen directors of said company, and upon the certificate of said judges, the said directors shall be authorised to qualify as directors, and to make all rules, regulations and by-laws, necessary for the government of said company and the management of its affairs, not inconsistent with the general laws of the land.

§ 40. That the board of directors of said company

shall have power to appoint three judges and two 57
clerks from year to year, for the purpose of holding an election for directors.

§ 41. That the said company be required to estimate and credit semi-annually, to the several holders thereof, a sum equal to six per centum per annum on the capital stock of said company actually paid in, to be charged to the construction until the road opens for business: *Provided*, a majority of the stockholders at
their first regular meeting agree thereto. 58

§ 42. That when a sufficient portion of the stock of the company is taken to commence work upon said road, that the work be commenced at the same time at Nashville and at the Mississippi river, and that the work be thus continued until said road be completed.

§ 43. That in the construction of a bridge across the Tennessee river for the purpose of avoiding any interference with the navigation of said river, it shall be the
duty of said company to build said bridge at least 59
thirty feet above extreme high water mark, between any two piers the company may deem best, and the distance between the two so selected shall be at least one hundred and fifty feet, so as to afford free and safe passage for all size boats.

CHAPTER 275.

SECTION 12. *Be it further enacted*, That the charter 60
of the Nashville and Northwestern Railroad be so amended that the stockholders upon subscribing shall not be required to pay more than one per cent. of their subscriptions, and that the acts of any three of the commissioners at any one place may be valid without the concurrence of the whole board.

Be it enacted by the General Assembly of the State of Tennessee.

61 § 1. That the forty-second section of an act entitled,
"an Act to charter the Nashville and Northwestern
Railroad," passed January 22d, 1852, be so amended
as to read as follows: "That the President and Board
of Directors of the Nashville and Northwestern Rail-
road Company, may commence the work on said road
where it intersects the Mobile and Ohio Railroad in
Obion County, Tennessee, at the point where the cheap-
est and most practicable route to the Madrid Bend will
strike said Mobile and Ohio Road, to be ascertained by
62 a sworn engineer, and prosecute their work eastwardly
from that point, instead of commencing on the Missis-
sippi river, as required in the 42nd section of their
charter, and also on both banks of the Tennessee river,
if in the opinion of the Board of Directors it is ex-
pedient to do so: *Provided*, That no call shall be made
on the stockholders residing west of the Mobile and
Ohio Railroad, until that part of the Nashville and
Northwestern Railroad lying west of the Mobile and
Ohio road is under contract: *And provided further*,
63 That this amendment shall not be binding on the com-
pany, or become a part of its charter until the same
is ratified at a general meeting of the stockholders in
said company (called for that purpose by order of the
Board of Directors), by a vote of a majority in interest
of the stockholders, counting the votes according to
the basis fixed in the charter of said company, in the
election of Directors.

§ 2. *Be it enacted*, That the 37th section of "An act
64 to incorporate the Nashville and Northwestern Rail-
road Company," passed January, 1852, Chapter 74, be
so amended as to allow said railroad company three
years from the passage of this act to commence their
work, and five years from the passage of this act to com-
plete a section of thirty miles "ready to receive the iron
rails, and that the said company shall receive the State
aid as provided by the act of 11th February, 1852, en-
titled, '"An act to establish a system of Internal Im-

provements in this State:" ' *Provided*, That the Nashville and Northwestern Railroad shall be located through Dickson County. 65

§3. Be it enacted, That the 43d section of the charter of the Nashville and Northwestern Railroad Company be so amended as to allow said company to construct a *draw-bridge* across the Tennessee river, so as not to obstruct the free navigation of said river.

§4. *Be it enacted*, That said company be and they are hereby allowed to receive subscriptions for three-quarters, half, and quarter shares of stock, and issue certificates for such fractional shares of stock. 66

Be and the same are hereby re-enacted and adopted, with the privileges, franchisees, powers and responsibilities conferred and granted by said charter, so far as the same are applicable and not inconsistent with the constitution of Kentucky, to enable the said Nashville and Northwestern Company to continue their line of railway to the city of Hickman, in Fulton County, Kentucky. 67

§5. This act to take effect from its passage.

Approved March 8, 1856.

68

EDGEFIELD AND KENTUCKY RAILROAD 1
vs.
D. W. SENTER, Governor, et al.

This bill is founded on a misapprehension of the 2
action of the Commissioners of the State of Tennessee,
under the law approved July 5th, 1870. That act does
not contemplate a "*foreclosure* of the mortgage" as
alleged in the bill, nor do the Commissioners by their
advertisement referred to as an exhibit propose a *sale*
of the *road* or of the *interest* of *complainants*. It has
evidently been overlooked by complainants that the
State as mortgagee merely proposes a sale or assignment
of *its own interest* in the railroads, and does not
propose a foreclosure, as repeatedly alleged in the bill.
The only mention of the true action of the State and 3
its Commissioners in the bill is an interlineation *in
pencil* made evidently after the draught was finished,
and perhaps on the argument of the cause. The sale
proposed is provided for in the Act amendatory of the
Internal Improvement Act passed December 7th, 1867,
which provision is "that upon failure of any railroad
company mentioned in said Act for two consecutive
years to pay the interest on bonds," &c. This "mortgage" 4
then is to secure the *interest* as well as principal
of the bonds.

The bill proceeds upon the presumption that the sale of the State's interest will amount to a destruction of the interest of the stockholders. This cannot and does

5 not appear from anything in or out of the bill. The State does not propose a sale of the *interest* of the *stockholders*. Such a sale would amount to a conversion of the road by the State and would preclude the State from demanding the money secured by the mortgage. The sale of her own interest, which alone she proposes, would simply put the purchaser or assignee of the State's interest into the shoes of the State, and would "not destroy the privity of the estate," nor "pass the title to the road to the purchaser," and if 6 the earnings of the road will soon be ample to meet its debts, as alleged in the bill, what hardships can there be in paying those earnings to another person instead of the State?

The State did not contract to hold her interest forever. It was never contemplated that a contingency would arise where the railroad in the hands of the State's Receiver, as it has been since 1861, would not be able to pay its interest on the bonds.

The bill is lavish in promises like every bankrupt, 7 that the golden shower will descend *to-morrow*. The State has been neither a rapacious nor niggardly creditor. She has put her Receiver on the road and has run it for some ten years without a return. She assumed its debts to the Federal Government, and has lavished her bonds upon a bankrupt corporation to keep it on its feet, and now when she proposes to dissolve so profitless a partnership and sell out her interest, her hands are to be tied by injunctions, and she amused with promise of future payment which nothing 8 int he past history of the road warrants. And in the same breath that speaks golden promises we are told that the debts assumed for it to the United States Government and the advances made to it, by which, if at all, its prosperous future will be produced, were a fraud upon the stockholders and an iniquity that a Court of conscience must prevent. Is the State of Tennessee to be prohibited from selling her own interest on account of general and declaratory allegations as to

"Strangers" obtaining possession of the road who will 9
destroy complainant's interest? If the $10,000 or $20,000 net earning of the road (per month) shortly to be realized is an argument to keep the State from selling out, it will certainly keep the purchaser of the State's interest from destroying the road or complainants' interest therein. It would certainly be a strange stranger who would buy "a goose" worth $1,481,000 and "kill her" in the act of laying 20,000 golden eggs per month. Complainants are endeavoring to climb
the mountain before reaching its base. 10

Whether there may or may not be equity upon the face of complainants' bill to entitle complainants to an account, it is not necessary now to discuss. The proposition now to be disposed of is whether upon the case made out by the bill, the sale of the State's interest should be enjoined. Whatever rights and securities might be found to relate to a proposed *conversion* of the property of complainants by an absolute sale, we apprehend no one has the right to object to the State's
disposing of her own. It is not proposed to argue the 11
right of the *foreclose*, however that ought to be decided, and however clear the right even to do that may be, it is not necessary upon this application to enter into it. But it is not intended by anything in the foregoing to concede that she has not a perfect right now to foreclose.

A. J. CALDWELL,
Attorney-General.

12

13

MEMPHIS AND CLARKSVILLE AND L. R. R.

vs.

D. W. SENTER, *et als.*

In addition to authority and argument of preceding Brief, and as to rights of mortgagor as against the assignee of the State's, the mortgagee's interest. 14

1,023 E. Redfield & Sto. Eq., page 211.
Sto. Eq., Sec. 416-17.
Washburn, Vol. 1st, 580-1.

REMARKS OF U. S. SUPREME COURT IN MERIAN *v.* DUNCAN. 15

P. 21. Mr. Justice Strong. How can this decree cut off their rights?

P. 23. Mr. Justice Bradley. Will you state for my information? the holders of State bonds have a lien? do you mean to say they have an expressed lien, or do you contend that the lien which the State has for the payment of these bonds is theirs by implications?

16 P. 23. Mr. Justice Bradley. In whosoever hands they are?

P. 27. Mr. Justice Bradley. Will you please refer me to a copy of one of the bonds?

P. 28. Mr. Justice Bradley. Did the holder get his interest at the State Treasury, or did he have to go to the Company?

P. 28. Mr. Justice Bradley. I want to get all the ar- 17
rangement between the State and the Company. The
Company was to furnish the State with money to pay
the interest or was the bondholder to go to the com-
pany and get his interest.

P. 64. Chief Justice Waite. I don't call to mind the facts of the case, although I remember the names which you have mentioned.

P. 70. Chief Justice. In this case, if I understand
correctly the pleadings, there was surrendered by 18
the railroad company an amount of bonds equal to the
amount that had been issued to the company, and
these bonds were issued for the purpose of raising the
money to make that purchase of the State securities to
surrender.

P. 70. Chief Justice. But in point of fact the rail-
road company has discharged an equal amount of the
indebtedness of the State as was delivered to the rail-
road company. 19

P. 70. Chief Justice. They have actually taken up and surrendered to the State an equal amount of bonds to that delivered.

P. 71. Chief Justice. They were internal improvement bonds.

P. 71. Mr. Justice Strong. Do you claim that the
remainder of these State bonds, internal improvement
bonds, are outstanding ? 20
(They are.)

P. 71. Mr. Justice Strong. Bonds which were surrendered to the State were other State debts.
(Yes, sir.)

P. 72. Mr. Justice Miller. Do you maintain that because these original bonds are out and are a first lien, that these bonds ought not to be a first lien also ?

21 P. 72. Mr. Justice Bradley. The whole proceeding by the legislature was that the lien was for the benefit of the State, and that the State would take up and assume it altogether provided an equal amount of bonds of different kind were surrendered.

Yes, sir.

ARGUMENT OF C. F. SOUTHMAYD, Esq.

22 P. 96. Mr. Justice Strong. The Court below have decreed that these substitution bondholders have a priority.

P. 97. Mr. Justice Strong. The Court below have decreed, if I understand the decree, that the holders of these substitution bonds, by virtue of the action of the Legislature of Tennessee, have a priority of lien over the mortgages of the company, which were prior in
23 date to the passage of the act in 1869. In other words, they have a priority over all the mortgages that were ever in form executed, and, therefore, that they come into the exact place into which the internal improvement holders were.

Mr. Southmayd. They have held that.

P. 97. Mr. Justice Strong. Then are not the holders of mortgages prior in date to the mortgage covering these substitution bonds interested in resisting that.
24 Are they not proper parties?

P. 98. Mr. Justice Strong. They contend that these substitution bonds have no lien whatever.

P. 99. Mr. Justice Miller. If the holders of these first statutory bonds are necessary parties, the Federal Court is ousted of jurisdiction.

P. 100. Mr. Justice Miller. Can you suggest any

way in which five hundred men all over the United 25
States could be brought in ?

P. 103. Mr. Justice Strong. Under the act of 1851-2 —this original act which authorized these Internal Improvement Bonds—the State agreed to deliver its own bonds to this railroad company, but retained a lien, if you please, for its indemnity, but requiring the railroad company to provide money to pay the bonds. At best, therefore, was not the State at least a surety in
reference to the bonds, if the railroad company was a 26
principal debtor.

P. 104. Mr. Justice Strong. Now, the bondholder was the creditor, the one who purchased the bond. Now, if the principal debtor gives a mortgage to his surety for indemnity, does the mortgage in equity belong to the creditor, and can the grantee assign that mortgage away, so as to take it from a creditor.

P. 122. Mr. Justice Miller. Is there any mode of
ascertaining of all these Internal Improvement Bonds 27
what number were issued ?

P. 127. Mr. Justice Harlan. That does not read exactly like the one in the record.

P. 127. Chief Justice. The difference is said not to be material.

P. 128. Mr. Justice Miller. Were those bonds numbered ?

28

P. 128. Mr. Justice Miller. The copy we have here is not numbered.

P. 129. Mr. Justice Clifford. Did the money which the purchaser paid for that bond go to the railroad ?

P. 129. Mr. Justice Clifford. And what security had the holder of the bond for the money ? He had this paper and what else ?

29 P. 129. Mr. Justice Clifford. You can maintain that proposition and perhaps get along.

P. 132. Mr. Justice Strong. How can any man who owns bonds know that he owns one of those that were issued to the Mobile and Ohio Railroad ?

P. 141. Mr. Justice Bradley. Is the State of Tennessee amenable to suits in equity ?

P. 142. Mr. Justice Bradley. No implications arise
30 against a sovereign State, such as do arise against individual sureties, that they shall hold the securities or collaterals in their hands for the benefit of the creditors.

ARGUMENT OF A. CAMPBELL.

P. 174. Mr. Justice Miller. Mr. Southmayd has said nothing at all about the rights of the State to transfer the security or the lien of these bonds.

31 P. 177. Mr. Chief Justice Waite. That was the provision in the Duncan-Elliot mortgage.

P. 181. Mr. Chief Justice Waite. Was any portion of the sinking fund included in that amount.

P. 198. Mr. Justice Strong. Was the Mobile and Ohio Railroad Company one of them ?

P. 199. Mr. Justice Strong. That decree was made
32 by the Chancellor of the District of Nashville, and not by the Supreme Court.

P. 199. Mr. Justice Bradley. Who was Chancellor at Nashville at that time ?

P. 201. Chief Justice Waite. What became of the roads that were sold, who bought them, and what has beendone with them ?

P. 201. Chief Justice Waite. They were not bought 33
by the State.

P. 201. Mr. Justice Harlan. Does the State pay the interest on these outstanding bonds ?

P. 210. Mr. Justice Clifford. Does that take vested rights out of the control of the State, that reservation ?

P. 214. Mr. Justice Strong. Suppose that be admitted, that there is no remedy vested in the Court in such a
case as that, is it still true that it is impossible for the 34
State to constitute itself trustee for another ?

ARGUMENT OF MR. HUMES.

P. 232. Mr. Justice Miller. You are not willing that this mortgage should be extinguished, but transferred to somebody else ?

ARGUMENT OF JUDGE GEORGE HOADLY.

35
P. 250. Mr. Justice Strong. When you say that, do you mean the liability of the Mobile and Ohio Railroad Company was discharged ?

P. 303. Mr. Justice Harlan. I suppose under that seventh section, that $10,000 in bonds of the State of Tennessee, other than those issued by the railroad, had been purchased by the Company, and the Company had a receipt showing the delivery of that amount of bonds, "and bonds so paid shall be a *credit on the*
bonds issued to the Company." Is it your argument 36
that after they are thus credited, the lien still exists for the bonds.

P. 304. Mr. Justice Harlan. And as between the State and said Company the bonds so paid in shall be a credit.

P. 304. Mr. Justice Harlan. The point is whether

37 you intend to claim the lien is still alive in favor of the bondholders?

P. 305. Mr. Chief Justice Waite. It is your argument, that, after the payment by the Railroad Company to the State of its Sinking Fund, in exact accordance with the terms of the Act, that the Company is again liable for the payment of the bonds of the State in the hands of the holders?

P. 305. Mr. Chief Justice Waite. I say, is again
38 liable for the bonds of the State in the hands of the
holders?

P. 305. Mr. Chief Justice Waite. Then your argument is, that the payment by the State of the Sinking Fund to the State is not a discharge of the obligation of the Company in respect to the bonds?

P. 307. Mr. Justice Strong. The Sinking Fund is a cumulative security.

39 P. 307. Mr. Justice Bradley. The cases you have cited are not precisely parallel.

A bill to authorize the Governor of the State to issue bonds of the State of Tennessee to the East Tennessee and Virginia Railroad Company to aid in the building of bridges.

40

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, that for the purpose of aiding the East Tennessee and Virginia Railroad Company in the construction of bridges on their said Railroad, the Governor of the State is hereby authorized and required to issue *coupon* bonds of the State of Tennessee to said company, to an amount not exceeding the sum of three

hundred thousand dollars, bearing an interest of six 41
per centum per annum, payable semi-annually at such
places as the President of the said company may designate,
which bonds shall be payable in not less than
thirty, nor more than forty years after date, and at
such places as said President may designate, but said
bonds are to be issued as hereinafter provided.

Section 2. Be it enacted, That whenever it shall be
made known to the Governor to his satisfaction by the
President and directors of said company, that forty 42
miles of said railroad have been put under contract, and
that the work on the same is progressing to completion,
and said company has sufficient *bona fide* subscription
to grade and put the necessary culverts on said section
of forty miles, ready for the iron rails, which subscription
shall be adjudged solvent and valid by the Board
of Internal Improvements, then it shall be the duty of
the Governor to issue to said company *coupon* bonds of
the State of Tennessee of the description aforesaid, to
an amount not exceeding one hundred thousand dol- 43
lars, to be expended on the bridges necessary to be constructed
on the said section of forty miles. And in like
manner, when a second section of forty miles shall have
been put under contract, and the work therein progressing,
and said company has sufficient *bona fide* subscription,
to grade and put on the necessary culverts as
aforesaid, ready for the iron rails, which subscription
shall be adjudged solvent and valid by the Board of
Internal Improvements, and all of which facts shall be
made known to the Governor in the manner aforesaid, 44
to his satisfaction, then it shall be the duty of said
Governor to issue to said company *coupon* bonds of the
State of Tennessee of the description aforesaid, to the
amount not exceeding one hundred thousand dollars to
be expended on the bridges necessary to be constructed
on said section of forty miles, and a like provision with
the like restrictions and conditions in all respects is
hereby for an additional section of forty miles of said

45 railroad, the funds to be used in the construction of
the necessary bridges on said last named section.

In the 2d Section, 5th line from bottom after improvement insert, "Or any Chief Engineer or other persons appointed to examine and report work of Internal Improvement."

By Guild adopted December 18th.

SECTION 3. Be it enacted, That so soon as the bonds
46 are issued for the first section of forty miles as pro-
vided in the first section of this act, the said bonds
shall on the issuance thereof, constitute a lien upon all
the stock of said company, upon the road-bed, ma-
sonry, bridges and other property of said company, and
the state shall be invested with such lien on and by vir-
tue of the issuance of said bonds, without a deed from
the company for the payment of said bonds and inter-
est accruing thereon; and whenever the bonds are is-
sued for either or both of the other sections of forty
47 miles as specified in the first section of this act, the
State of Tennessee shall on and by virtue of the issu-
ance of said bonds be invested with a like lien or mort-
gage on said section for the payment of said bonds and
the interest thereon; including road-beds, masonry,
bridges on all of the said section provided for in this
act and on all of the stock of said company, without a
deed from the company, and said lien or mortgage shall
have priority over all other claims against said com-
pany, and liens created by the company, after the issu-
48 ance of the bonds of the first forty miles of said rail-
road, shall be void as to the lien of the State of Tennes-
see hereby created, for the payment of the bonds is-
sued under the provisions of this act and the accruing
interest thereon, and the said liens of the state shall
extend to and embrace the entire railroad, its super-
structure and equipments after completed, and so con-
tinue until said bonds and interest thereon are paid off
and discharged, without a deed from the company.

SECTION 4. Be it enacted, That said company shall pay into the Bank of Tennessee at Nashville, at least ten days before the interest falls due upon said bonds from time to time, an amount sufficient to pay said interest as it falls due, or deposit in said bank at Nashville satisfactory evidence that the same has been paid or provided for by said company. And should said company fail to comply with the provisions of this section of this act, or fail to pay said bonds when they fall due, then it shall be the duty of the Governor of the State to cause such suit or suits to be instituted and such proceedings to be had against said company as will most speedily and effectually protect the interest of the State and secure the payment of said bonds or said interest. And the Court or Courts in which such suits are instituted shall make all such rules or orders and decrees therein as will best indemnify the State against any loss on account of the issuance of said bonds by a sale of said roads, equipments and other property of the company, or by ordering the road, rents, issues, profits and assets to be placed in the hands of a Receiver or Receivers, or otherwise.

SECTION 5. Be it enacted, That the Legislature of this State shall have power to enact any law or laws that may hereafter be deemed necessary to protect the interest or credit of the State against loss or damage on account of the issuance of said bonds, and to provide for the more speedy and certain payment by the company of said bond and interest—not impairing the vested rights of the stockholders—and that for that purpose and the purposes of notice of the existence of this act, the same is hereby declared to be a public law.

SECTION 6. Be it further enacted, That before the Governor shall issue any bonds under the provisions of this act, he shall require the engineers of said company to examine the premises where said bridge or bridges are to be built, and ascertain as near as he may

53 be able, the cost of construction of such bridge or
bridges with good materials and in a good and substantial
manner, and report the same under oath to the
Governor, and it shall not be lawful for said Governor to
issue bonds as aforesaid for a greater amount for the
construction of such bridge or bridges than the sum
specified in the report of said engineer, and the provisions
of this act shall only extend to and include a
bridge across the Watanga River—two bridges across
the Holston River, and a bridge across Lick Creek on
54 the line of said road—and no bonds shall issue under
this act unless upon the written affidavit of the President
of said company, and a resolution of a majority of
the directors thereof; that said bonds when issued shall
not be used for any other purpose than for procuring the
means for the construction of said bridge or bridges, and
it shall not be lawful for said bonds to be used for any
other purpose, provided the estimates of said engineer
shall include the masonry on the line of said road.
Provided that the bonds of the State shall not be issued
55 to build the bridges herein provided for until there
is stock subscribed by good and solvent individuals,
corporations, companies or counties sufficient to grade
the roads and put the timbers on the same from
Knoxville to the Virginia State line, which facts shall
be certified to the Governor of the State by the written
affidavit of the President and Directors of said
road.

SECTION 7. Be it enacted, That it shall be the duty
56 of said company to deposit in the Bank of Tennessee
at least fifteen days before the interest becomes due,
from time to time, upon said bonds issued as aforesaid,
an amount sufficient to pay such interest, including exchange
and necessary commissions, or satisfactory evidence
that said interest has been paid or provided for,
and if said company fail to deposit said interest as
aforesaid, at the time aforesaid, or furnish the evidence
aforesaid, it shall be the duty of the Comptroller to re-

port that fact to the Governor, and the Governor shall 57
immediately appoint some suitable person or persons, at the expense of the Company, to take possession and control of said railroad, and all the assets thereof, and manage the same and receive the rents, issues, profits and dividends thereof, whose duty it shall be to give a bond and security to the State of Tennessee, in such penalty as the Governor may require, for the faithful discharge of his or their duty, as Receiver or Receivers to receive said rents, issues, profits and dividends, and
pay over the same under the direction of the Governor 58
towards the liquidation of such unpaid interest. And if said Company fail or refuse to deliver up said road to the person or persons so appointed by the Governor, the said person or persons shall report that fact to the Governor, who shall forthwith issue his warrant directed to the Sheriffs of the Counties through which said road shall run, commanding them to take possession of said road, fixtures and equipments, and everything pertaining thereto, and place the said Receiver
in full and complete possession of the same, and said 59
Receiver so appointed shall continue in the possession of said road and fixtures and equipments, and run the same and manage the entire road until a sufficient sum shall be realized, exclusive of the cost and expenses, incident to said proceeding, to pay off and discharge the interest as aforesaid, due on said bonds, when being done, the Receiver shall surrender said road and fixtures and equipments to said Company. The Comptroller shall from time to time settle the accounts with
the Receivers, and the balances shall be deposited in 60
the Treasury of the State. The Comptroller is authorized, and it is made his duty upon his warrant to draw from the Treasury any sum of money necessary to meet the interest on such bonds as may not be provided for by the Company, as provided for in this Act, and the Comptroller shall report thereof to the General Assembly from time to time.

61 SECTION 8. Be it enacted, That if said Company shall fail or refuse to pay any of said bonds when they fall due, it shall be the duty of the Governor to notify the Attorney General of the District in which is situated the place of business of said Company, of the fact, and thereupon said Attorney General shall forthwith file a bill against said Company in the name of the State of Tennessee, in the Chancery or Circuit of the County in which is situated said place of business, setting forth the facts, and thereupon said Courts shall
62 make all such orders and decrees in said cause as deemed necessary by the Court to receive the payment of said bonds with the interest thereon and to indemnify the State of Tennessee against loss on account of the issuance of said bonds, by ordering the said railroad to be placed in the hands of a Receiver, ordering the sale of said road, and all the property and assets attached thereto or belonging to said company, or in such other manner as the Court may deem best for the interest of the State.

63

SECTION 9. Be it enacted, That at the end of five years after the completion of said road, said Company shall set apart one per centum per annum upon the amount of bonds issued to the Company, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the Company shall pay into the Treasury of the State after assigning them to the Governor and for which the Governor shall give said Company a receipt, and as between the State and said Com-
64 pany the bonds so paid in shall be a credit on the bonds issued to the Company. And said bonds so paid in, and the interest accruing thereon from time to time, shall be and used by the State as a sinking fund, for the payment of the bonds issued to the Company, and should said Company re-purchase any of the bonds issued to it under the provisions of this act, they shall be a credit as aforesaid and cancelled.

And should said company fail to comply with the

provisions of this section it shall be proceeded against 65
as provided in the fifth section of this act.

Section 10. Be it enacted, That in the event any of the roads, fixtures or property belonging to any of said roads shall be sold under the provisions of this act, it shall be the duty of the Governor to appoint an agent for the State, who shall attend said sale and protect the interest of the State; and shall, if necessary to protect said interest buy in said road or property in
the name of the State. And in case said agent shall 66
purchase said road for the State, the Governor shall appoint a Receiver, who shall take possession of said road and property; and use the same as provided for in the 5th section of this act, and said Receiver shall settle with the Comptroller semi-annually, until the next meeting of the General Assembly.

To the Hon. E. H. East, Chancellor of the State of 67
Tennessee, presiding at Nashville, Tennessee.

The bill of complaint of the Memphis, Clarksville and Louisville Railroad Company, G. A. Henry the President, and the Directors of the Memphis, Clarksville and Louisville Railroad Company.

DeWitt C. Senter, E. R. Pennebaker, F. H. Butler, Francis B. Fogg, R. J. McKinney and Archibald Wright, citizens of Tennessee, and the first four citizens
of Davidson County, R. J. McKinney, of Knox, and 68
Archibald Wright, of Shelby County of said State.

Complainants state that they are the legal representatives of a corporation of said State known and designated in its charter as the Memphis, Clarksville and Louisville Railroad Company, in the full exercise and enjoyment of the rights and privileges granted them by the legislature of the State in their said charter.

69 That besides the rights, powers, privileges and franchises granted in their own particular charter they are vested by express provision with all the rights, powers, privileges, franchises granted to the Nashville & Chattanooga Railroad Co. Complainants further state that by the Act of the Legislature known as the General Internal Improvement Law, passed in 1852, the Memphis, Clarksville and Louisville Railroad Company, upon conditions set out in said law, was authorized to demand and receive from the Governor of the State
70 the coupon bonds of the State at the rate of ten thousand dollars per mile, with additional bridge aid granted in other and additional acts, as set out in the same.

Complainants further state that the citizens of Montgomery County, in said State, subscribed six hundred and fifty thousand dollars of stock in said company besides other additional stock subscribed by the citizens of Stewart, Benton and Henry Counties, making a good and solvent stock list of over seven hundred thou-
71 sand dollars. That said subscribers with but few exceptions, have paid up all their stock subscriptions, and the money has been expended judiciously, economically, and wholly in the preparation of the roadbed ready for the iron rail.

That finding unprecedented and unsuspected obstacles in the path of said roadway which penetrates and cuts through the Tennessee River Ridge, the said company was compelled to raise other means outside of their stock subscription to complete their roadway.
72 To do so they applied to the Legislature then in session to pass an act authorizing the said company to issue second mortgage bonds to the maximum amount of three hundred and fifty thousand dollars ($350,000), and to secure the same by a mortgage on their roadbed, rights, franchises, and all other property of every description belonging to said company; making said bonds secondary only to State aid so as above authorized to be issued. A copy of their said mortgage

is herewith filled and made part of this bill as Exhibit 73
(A). Complainants state that of the expenditure of
said stock subscription the proceeds arising from the
sale of a portion of said mortgage bonds and the pre-
dicating of others as collaterals on loans, the said road
was finished and put in successful operation. But
almost immediately thereafter the road was seized by
the military authorities, then in possession of the
County by and with the concurrence and sanction of
the State of Tennessee, and after having used the same
without payment or profit to the company was left by 74
the military aforesaid, with the bridges across the Ten-
nessee and Cumberland rivers burned and the track
torn up; and the rolling stock destroyed or removed.
In this prostrate condition it remained for nearly five
years during which time, the whole country through
which it passed suffered the ravages of a desolating
civil war. During this time the interest on its bonds
was of course unpaid, but as complainants state from
no fault with which they are justly chargeable, but
from the overwhelming calamities of civil war, and are 75
advised that it is the duty of a State to protect its
citizens from the consequences of lawful war, and will
not permit them to bear the losses inflicted by a state
of war.

Complainants state that in the year 1865, when the
business of the country was utterly prostrated and
when the said Company was so as above stated in de-
fault, but having been guilty of no malfeasance, the
State by its Governor appointing a Receiver for said
Railroad and the Act of 1865, Chap. 9, was passed, by 76
which the unpaid interest was funded and bonds issued
in discharge of same to the amount of three hundred
and twelve thousand six hundred dollars and charged
up to said company. That afterwards, to wit: in
1866, January 18th, the State issued to said company
or rather to the Receiver, but not on application of the
company, the further sum of five hundred thousand
dollars of the bonds of the State, and though the same

77 went into the hands of the Receiver and never into the control or management of the company, they have been charged up to this company on its bonded debt account at their par value, when they aver the fact to be that said bonds were not worth par, but largely less, say from fifty to forty cents in the dollar, and they are informed and believe were used by the Receiver at a discount to the amount above specified thus making the bonded debt of the road $1,894,600, which when added to the now accrued interest account, to wit: $511,542,
78 makes the whole bonded debt as above stated July 1st, 1870, $2,406,144. Thus by its own action and that of its Receiver and without the assent of the corporation more than doubles the original bonded debt of company in the short space of four years and by the gross mismanagement and frauds of its agents largely increasing the floating unbonded debt of the company.

Complainants state that with the affairs of the company in this deplorable condition the Legislature, in 1869, passed an Act permitting the President and Di-
79 rectors of the company to take charge of and manage its affairs, the President to be ex-officio Receiver for the State.

They state that when they proceeded to take charge of said company, they found the accumulated indebtness as above stated, and the treasury without one cent, and the road itself in the hands of a foreign corporation made with a former Receiver, as they are advised, without authority of law, and that, too, with a corporation whose policy it is to get not only the tempor-
80 ary possession, but the absolute ownership of said road.

Complainants state that this lease will now soon be terminated, and the road come really and not nominally under the management and into the hands of the proper officers of the company.

Complainants state that this road has had no other northern outlet but the Louisville and Nashville road, but that now the Nashville, Henderson and Evansville is very near completion, and will run its trains through, 81 as they are advised and believe, on or before the first day of January next. That this line will enable their road to tap the great northern system of roads by a route as near and convenient as by way of Louisville; that this connection will make their road the great trunk line, over which must go southward the immense coal supplies furnished by the inexhaustible mines through which the N. H. and Evansville Road runs, and in every other way add largely to its travel and traffic; that the said N. H. and Evansville Road is in- 82 timately connected, geographically and in interest, with the Penn. Central Road (a wealthy corporation seeking southern trade and travel), and as soon as its roadway is so, as above said, completed, will, in interest, and as they believe in fact, bring said Pennsylvania Central in actual contact with their said road, at its northern terminus, the Kentucky State line, thus adding greatly to its earnings, and if, at any time, a sale should be necessary, furnishing a competing and wealthy bidder, when, as the matter now stands, the Louisville and 83 Nashville Road will be the only bidder at the sale of sufficient power of wealth to become a real purchaser and retain the property at the minimum price fixed by the law, when, as these complainants aver, it is worth many hundred thousand of dollars now. And thus, too, enabling said Louisville and Nashville Company to cut off the Memphis and Ohio Road from all hope of shaking off the incubus of a lease said company has on said M. and O. Road, and by means of which (if thus cut off from all northern and eastern con- 84 nection at Paris) the said Louisville and Nashville Company can and will absorb the said M. and O., in its own good time and at its own figures.

Complainants state in addition, by way of showing the great and speedy enhancement of value which has and will continue to be the case with their roads, that owing to the improved and improving condition of the South, the earnings of their road has increased under

85 the management of its present President, in one year,
to a sum almost equal to their interest account, and
that in the last month the earnings of their road has
been almost double that of its earnings while in the
hands of other receivers, and they verily believe and
assert that from and after the 1st day of January next
the company will be able to pay its interest and sinking
fund account.

Complainants state that on the day of
the Legislature, at the instance of this
86 company, in part, passed an act authorizing all railroad
companies in the State to pay their indebtedness
to the State in State bonds of any series, and to substitute
their own mortgage bonds therefor. They state
that, in accordance with a provision of their charter,
making it necessary in order that any amendment of
their charter should become a part thereof, that it shall
receive the unanimous sanction of their Board; this
company did so accept and adopt said above recited
law, and that the same, as they are advised, thereby
87 became a part of their vested or chartered rights, and
they were in the act of availing themselves of its provisions
by arranging with all the creditors, except the
State, to convert their debts into stock, and by a mortgage
of their road, obtain money with which to purchase
the Tennessee bonds to liquidate their State liability,
a scheme which has been successfully carried out
by other corporations in this and other States, and
which, they aver and state, they still feel competent to
accomplish. This, without the loss of one cent to the
88 State, save to its citizens, the stockholders and creditors
of the company, one million of dollars in the single
item of discount, keep the road in original hands and
prevent it from going into the hands of some foreign
company or corporation, whose policy and interest is
inimical to that of the State and its people.

Complainant is advised that the State, as one only
of the creditors, will not, in your Honor's Court, be
permitted to take an inequitable advantage of its

precedence to the irreparable detriment of other creditors, 89
equal in merit though subsequent in priority of
lien; nor by any unwise and forced sale diminish the
trust fund to such a wasteful extent as to render impossible
for others to obtain their just demands or any
portion thereof. And much more forcible does this
principle apply when it is, as can be be made clearly
and palpably to appear, that a different management of
the trust property can result in no loss to the State, but
in great advantage to the other and equally meritorious
creditors. Notwithstanding all the above recited facts 90
and laws, the Legislature on the 5th and 8th of July
last, passed an act authorizing the said defendants
as Commissioners, to sell or to lease said M. O. and
Louisville Road, its rights and franchises and all
its property of any sort and description, which said
two acts the company never accepted, adopted or
made part of their charter, but on the contrary have
always protested against the same. And the said commissioners
are now pretending to execute the said
pretended law, as will more fully appear by reference 91
to the advertisement filed along herewith, as Exhibit
B, and made part of this bill, by reference to which it
will be seen they propose not only to sell but to transfer
said road, and otherwise to carry out the provisions
of said act, whereby they are not only authorized to
sell and convey or lease, but to put the purchaser in
possession and denounce heavy penalties, both fine and
imprisonment, if said possession is resisted. Complainants
are advised that the act above recited as the
General Internal Improvement Law, is virtually the 92
contract between stockholders who put their money in
ths enterprise along with the State, and that any law
changing the condition of the same would be in violation
of their charter, and as it would be a law impairing the
obligation of contracts unconstitutional. By the terms
of said law, in case the road shall, by calamities it could
not control, or by any malfeasance or otherwise, fail to
pay its interest, the law authorizes the Governor of the

93 State to put a receiver in possession who shall run said road, and pay over the net earnings until the overdue intersest is all paid; and when this is done the law provides that the road shall be returned to the company by such receiver. The power of sale is only given when the bonds themselves fall due, and complainants aver that none of the bonds issued to this company are yet due, or will for eighteen years yet to come; but the laws passed as above said, on the 5th and 8th of July last, authorize said commissioners to sell, convey and,
94 depriving the company of control, put the purchaser in actual possession without privilege of redemption; in a word, to create in the purchaser an absolute title.

Complainant is advised that even though the honorable Court should think the State possessed the power to pass a law to sell and convey, the courts would interfere in case the amount being a large one was not, with some approximate degree of certainty, ascertained, as the largeness of the debt, which is made a minimum, would deter and drive off bidders, and place the inter-
95 est of the company and its creditors in the power and at the mercy of wealthy corporations and individuals.

In this connection, complainants state, as they have before stated, that at least one-half of the whole debt claimed by the State, to wit, $1,200,000, was incurred by the receiver, who was put in possession by the State and received these bonds and used them without the sanction or authority of complainants or said company; and are advised that even if the Court should hold that they are responsible at all, they could only be held
96 liable for the actual value of said bonds and interest on said sum so realized, and applied to the improvement of said road. Complainants state again, as they have before stated, that the State, through its receiver, was in possession of said property for nearly five years; and they are advised that during all of said time, the mortgagee being in possession of the mortgaged property, cannot collect interest, but only the earnings, the rents and profits of the estate.

They state that during said period of occupation by 97
the State, through its receiver, they, the stockholders
of the company, were deprived of their property,
and could have paid their interest or have made some
provision for same ; but inasmuch as they did not have
possession, they are in nowise responsible for the in-
terest aforesaid, and the sum ought not to be
charged against this company. Complainants aver that
if upon an account taken, which they here ask
for, it should appear, as they verily believe it will, that
they owe the State but a million and a half, they could 98
easily pay up every cent so due, but if this road is sold
until this balance is ascertained, they could not pro-
tect their property from hasty sale, because these large
demands would inevitably make capital timid in in-
vesting in their mortgage bonds.

Complainants are advised that not only is said acts of
7th and 8th of July unconstitutional, for the reasons
above stated, but for the further reason that they con-
fer upon the treasurer, one of the distinct and separate
departments of the Government, to wit, the Executive, 99
judicial powers, thus violating the constitution of the
State, which declares that the executive and judicial
departments of the Government shall be separate and
distinct. The enforcement of legal rights can only be
effected by judicial orders and decrees ; but these acts
imposed upon him the judicial power to issue his war-
rant to the sheriff, commanding him to put the pur-
chaser or lessee in full possession, and inflict heavy
penalties upon all persons who may resist this flagrant
outrage upon the chartered rights of the company. 100
They are advised there is no authority in the Constitu-
tion for this extraordinary exercise of power, and that
the acts of the General Assembly of the 5th and 8th of
July, 1870, are therefore null and void.

Complainants state that, occupying fiduciary rela-
tions to all the parties in interest, the creditors, includ-
ing the State, the 2d mortgage bondholders, the gen-
eral creditors and the stockholders, they file this bill in

101 the interest and for the protection of the rights of all and ask that all be allowed to become parties and assert their rights. Complainants state that the Honorable Board of Commissioners have by virtue of said acts of 5th and 8th July, 1870, advertised said road for sale and will sell the same at Nashville at public auction on the 3d day of Nov. next, or lease the same to the irreparable loss and damage of this company and in violation of their chartered rights unless restrained by injunction from this Honorable Court. The premises considered,
102 complainants pray that copy and Spa issue that all the parties named as Railroad Commissioners in the caption be made parties defendant. Complainant's pray that your Honor will grant them writs of injunction restraining and enjoining said defendants, either or all of them, their agents or attorneys, from selling said road as they propose to do in their said advertisement or in any other manner carrying out or enforcing said acts of July 5th and 8th, 1870, either by sale or lease. Complainants further pray that said defendants and
103 all other persons be prohibited and enjoined from molesting any of the property or assets of said R. R. company or from executing any laws enacted in reference to said road except those which are contained in, or accord with, the terms of the original charter and the amendments which have been adopted by the said company. And the State of Tennessee being now in the possession of said railroad and property and assets by its Receiver holding a sufficient guarantee for the proper use of the property, they pray the writ of in-
104 junction herein prayed for, issue without security. Complainant prays for an account in this cause and that the company be relieved of all the interest on the bonds issued to it during the war while the road was under the military authority of the State, and while the same was in the possession and run by the Receiver of the State. As to whether the company is responsible for the bonds issued by the State since the war,

and if so, what discount the same were used at and how 105
much of actual value they were to the road.

And upon final hearing said injunction be made perpetual, that the said company be relieved of said interest accrued during the war and while the road was in the possession of the State. Of all bonds issued since to Receiver and not to the company, or of all except the real cash value of the same. And as in duty bound they will ever pray. This is the first application for an injunction in this case. They pray that the
charter and all the statutes of the State of Tennessee 106
with relation to said railroad, the reports of the earnings of the said railroad by the Louisville and Nashville, and the Receiver, and the reports made to the Legislature herewith filed be received as Exhibits in this Bill to be read at the hearing thereof.

HUMPHREYS, HARRIS & QUARLES,
Solicitors.

STATE OF TENNESSEE, }
Montgomery County. } 107

Personally appeared before me Polk G. Johnson, Clerk and Master of the Chancery Court of Montgomery County, G. A. Henry, President of the Memphis, Clarksville and Louisville R. R. Co., who makes oath in due form of law that the statements contained in the foregoing bill are true to the best of his knowledge, information and belief.

G. A. HENRY,
Prest. M. C. and L. R. R. Co.

108
Sworn to and subscribed before }
me, this October 25, 1870. }

POLK G. JOHNSON,
Com.

W. A. QUARLES,
JNO. F. HARRIS,
R. W. HUMPHREYS,
Solicitors for Complainants.

109 Exhibit B.

SALE OF RAILROADS:

In pursuance of the authority conferred upon us by the Act of the General Assembly of the State of Tennessee, approved July 5, 1870, entitled "An Act authorizing the sale and transfer of the interest of the State in delinquent railroad companies," we will offer at public sale on the third day of November, 1870, at the Capitol in the City of Nashville, the interest of the
110 State of Tennessee in the entire road, stock, right of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all of the property owned by each of the delinquent railroad companies, for the amounts due by said companies respectively, on account of bonds loaned them by the State of Tennessee, or otherwise, namely:

Cincinnati, Cumberland Gap and Charleston Railroad,
111 Southern, or Southwestern Railroad,
Edgefield and Kentucky Railroad,
Knoxville and Kentucky Railroad,
Memphis, Clarksville and Louisville Railroad,
McMinnville and Manchester Railroad,
Nashville and Northwestern Railroad,
Rogersville and Jeffersonville Railroad,
Winchester and Alabama Railroad,
Knoxville and Charleston Railroad,
Evansville, Henderson and Nashville Railroad,
112 East Tennessee and Western North Carolina Railroad,
Mineral Home Railroad,
Memphis and Little Rock Railroad.

And for the bid we will receive in payment and satisfaction any of the legally issued bonds of the State of Tennessee with accrued interest.

For further particulars, address the Comptroller of 113
Treasury at Nashville, Tennessee.

D. W. C. SENTER,
Governor.
F. H. BUTLER,
Secretary of State.
ED. R. PENNEBAKER,
Comptroller.
ROBT. J. McKINNEY,
FRANCIS B. FOGG,
ARCHIBALD WRIGHT, 114
Commissioners for the State.

STATE OF TENNESSEE,
Davidson County.

I, ROBERT EWING, Clerk and Master of the Chancery Court of Davidson County, Tennessee, at Nashville, hereby certify that the foregoing is a full, true and perfect copy of the original Bill and Exhibit "B," thereto filed in said Court on the 27th day of October, 1870, in the cause wherein G. A. Henry, President of the Memphis, 115 Clarksville and Louisville Railroad, is complainant, and Dewitt C. Senter, *et als.*, are defendants, as the same appear of record filed in my office.

In testimony whereof, I hereunto set my hand and affix the official Seal of said [L.S.] Court at office at the Court House at Nashville, this 31st day of July, 1879, and of American Independence the 104th year. 116

ROBERT EWING,
Clerk and Master.

117 **State of Tennessee,**
Davidson County.

I, A. G. Merritt, sole presiding Chancellor of the Chancery Court for Davidson County, Tennessee, sitting and holding the Chancery Court at Nashville in said County and State, here certify that Robert Ewing, whose geauine signature appears to the foregoing certificate, is clerk and Master of said Chancery Court, and that his attestation is in due form.

Given under my hand at Nashville, this 1st
118 day of August, 1879.

A. G. MERRITT,
Chancellor.

119

120

Proceedings of Davidson County Court.

STATE OF TENNESSEE, }
Davidson County. } 1

Wednesday Morning Nov. 22d, 1871.

County Court of said County met pursuant to a call made by the chairman, upon the request of the Railroad Commissioners, at the Court House, in the City of Nashville.

Present—His Honor W. A. GLENN, *Judge, &c.*, and the following members of the Court, to wit:

(Here follows names of the members.) 2

A majority of the acting Justices of the Peace in and for said County.

E. H. Childress, Esq., Secretary and Treasurer of the Board of Railroad Commissioners of Davidson County, then read the following proposition to purchase the county interest in the Nashville and North Western Railroad, to wit:

To the worshipful County Court of Davidson County: 3

The Nashville and Chattanooga Railroad Company hereby proposes to purchase the Stock of Davidson County in the Nashville and North Western Railroad Company, the same being three thousand shares, of one hundred dollars per share, at the price of thirty thousand dollars, to be paid and discharged in and by thirty bonds of the State of Tennessee, of the legal issue, and for One thousand dollars each, and bearing interest at the rate of six per cent. per annum. The bonds to be delivered 4
upon the ratification of the sale, and acceptance of this proposition by the people or proper authorities, and assignment of stock.

5 This proposition is made upon the condition that
Davidson County will stay proceedings on its appeal
and *supersedeas* in regard to the decree ordering
a sale of the Nashville and North Western Railroad,
now pending in the Supreme Court, at Nashville,
Tennessee, in the cause of the State of Tennessee
v. Edgefield and Kentucky Railroad Company
and others, pending the negotiation, and until
it is determined whether or not the proposition
shall be accepted and the sale ratified by the people
6 or proper authorities; and upon ratification that
the said appeal and *supersedeas* be dismissed.

Nov. 17th, 1871.

(Signed) E. W. COLE,
Pres. N. & C. R. R. Co.

And thereupon offered the following resolution, to wit:

Whereas, The Nashville and Chattanooga Rail-
7 road Company have proposed to buy the Stock of
Davidson County in the Nashville and Northwestern
Railroad Company. And the Court is of opinion
that the offer is a fair one and ought to be accepted.

Therefore, be it resolved, by the County Court of
Davidson County, sitting at an adjourned session of
the October Quarterly Court, a majority being present,
that the said proposition be accepted, and the sale
be made so far as this Court has power to make the
sale or accept the proposition. And that the prop-
8 osition be submitted to the people for their acceptance,
ratification of sale, or rejection. And that
an election be held in the manner prescribed by law,
for that purpose, at such time as this Court may
hereafter designate.

Whereupon, Esq. Maxey offered the following amendment, which was accepted, to wit:

Provided, The Nashville and Chattanooga Rail-

road Company shall in addition to the payment in 9
bonds for the Nashville and Northwestern Railroad stock, give the right of way for a good and sufficient railroad track to the Tennessee and Pacific Railroad Company, free of charge, from the present point of junction of said Tennessee and Pacific and Nashville and Chattanooga Railroads, to the grounds of said Tennessee and Pacific Railroad Company, between Franklin street and the railroad crossing of the Nashville and Nolensville Turnpike.

The resolutions and amendment were then adopted 10
by a vote of 36 to 1.

(Here follow names).

STATE OF TENNESSEE, }
Davidson County. }

Monday Morning, Jan. 8th, 1872.

County Court of said County met pursuant to adjournment, at the Court House, in the City of Nashville.

Present—His Honor W. A. GLENN, *Judge &c.*, 11
and the following member of the Court, to wit:

(Here follows names of members.)

A majority of the acting Justices of the Peace in and for said county.

ESQ. BASKETTE introduced a resolution which was adopted, instructing the Judge to notify the Sheriff to open and hold an election in accordance with law, for the ratification of the sale of the County's interest in the Nashville and Northwestern 12
Railroad to the Nashville and Chattanooga Railroad Company.

STATE OF TENNESSEE, }
Davidson County, }

Wednesday Morning, April 3d, 1872.

County Court of said county met pursuant to adjournment, at the Court House, in Nashville.

13 Present—His Honor THOS. T. SMILEY, *Judge, &c.*, And the following members of the Court, to wit:

(Here follows names of members).

A majority of the acting Justices of the Peace in and for said county.

The resolution of Esq. Maxey which was pending when the Court adjurned on the 27th of February at the adjourned January Term, 1872, was then called up and read. And thereupon Esq. Maxey offered an amendment to the same, which was 14 adopted.

"And provided also that the Nashville and Chattanooga Railroad Company will faithfully execute and carry out the agreement heretofore made by it with the Tennessee and Pacific Railroad Company for a right of way to their depot grounds. And upon the Nashville and Chattanooga Railroad Company entering into bond with security in the sum of $300,000.00 which shall be satisfactory to the County Judge and Railroad Commissioners for the 15 county, the County Judge shall transfer the stock of the county in the Nashville and Northwestern Railroad Company to the Nashville and Chattanooga Railroad Company, if the people vote in favor of the same.

Esq. Meacham moved to amend the original resolution by striking out the words "with coupons attached," and inserting the words "with all past due coupons attached," which was accepted by Esq. Maxey, and adopted by the Court.

16 The resolution as amended was then adopted by a vote of 49 to 4, so as to read as follows:

Whereas, at an election held in the county of Davidson in reference to the sale of the Nashville and Northwestern Railroad, it appear from the returns of the Sheriff that in several of the districts there was no election held, and this Court has declared the election null and void; now, therefore, 17 Resolved, That should the Nashville and Chattanooga Railroad Company agree to pay to the county $30,000.00 in State bonds, with all past due coupons attached, and guarantee the county against all liabilities to the tax-payers for the railroad tax receipts on that road, that this Court will again submit the sale of the county's interest in the Nashville and Northwestern Railroad to the vote of the people. The vote on the resolution as amended being as follows:

(Here follows names. *Ayes*, 49; *Noes*, 4.) 18

STATE OF TENNESSEE, }
Davidson County. }

Friday morning, April 5th, 1872, County Court of said county; met pursuant to adjournment at the court-house in Nashville. Present—His Honor, Thos. T. Smiley, Judge, &c., and the following members of the Court, to wit:

(Here follows names of members.) 19

A majority of the acting Justices of the Peace in and for said county.

Esq. Baskette offered the following, which was adopted:

Be it ordered by the County Court of Davidson
county, that the order of this Court on April 3d,
1872, submitting the question of the sale of the
county's interest in the Nashville and Northwestern
Railroad to the people on the 1st Thursday in 20
August next be recommended.

Whereupon, Esq. Maxey offered the following preamble and resolution in lieu of the one offered by him on Wednesday, the 3d inst.:

Whereas, The Nashville and Chattanooga Railroad Company submitted a proposition to this Honorable Court at its meeting on the day of

November, 1871, proposing as a compromise to purchase the interest (whatever it might be) of Davidson county in the capital stock of the Nashville and Northwestern Railroad, and pay therefor thirty bonds of legally issued Tennessee bonds of one thousand dollars each.

And Whereas, That proposition was accepted by this Honl. Court by a vote of thirty-six (36) to one (1).

And Whereas, That action of the Court was subsequently referred to the people of the county for approval, and was approved by a vote of for the proposition to against it.

And Whereas, This Court has heretofore been furnished with an able and exhaustive legal opinion prepared by A. L. Demoss, W. F. Cooper and E. W. Ewing, deciding that all action legally necessary to make the contract binding on the county has already been taken, and that in their opinion the title of said stock now vests in the Nashville and Chattanooga Railroad Company.

And Whereas, Since that opinion was furnished, a case similar in character to that of the county has been decided by the Supreme Court of the State adversely to the position taken by the county, therefore,

Be it Resolved, That the Judge of this Honl. Court be and is hereby authorized and directed to transfer to the Nashville and Chattanooga Railroad Company on the books of the Nashville and Northwestern Railroad Company the stock owned by the county of Davidson in said Nashville and Northwestern Railroad Company, being three thousand shares of one hundred dollars each, upon the said Nashville and Chattanooga Railroad Company complying with the following terms and conditions, to wit:

The Nashville and Chattanooga Railroad Com- 25
pany to pay over to the railroad commissioners for
the county, the thirty Tennessee State bonds, as
provided for in the proposition of E. W. Cole, Presi-
dent referred to above, with the further condition
that said bonds shall have attached thereto the
accruing interest coupons from the 1st of January,
1869, to the 1st of January, 1872; and further that
said Nashville and Chattanooga Railroad Company
shall enter into bond, and deliver such bond to
the Judge of this Court, guaranteeing the county 26
against loss on account of any legal claim or claims
by the tax-payers of Davidson County to stock in
the Nashville and North-Western Railroad Com-
pany to an amount equal to the sum, and of the
same character of stock as is hereby ordered to be
transferred to the Nashville and Chattanooga Rail-
road Company; and further, that said Nashville
and Chattanooga Railroad Company shall permit
the Tennessee and Pacific Railroad Company (in
which this county has considerable interest) to ex- 27
tend its track on the right of way owned by said
Nashville and Chattanooga Railroad Company from
the present junction of tracks, near Brown's Creek,
to the depot grounds of said Tennessee and Pacific
Railroad Company.

Upon the foregoing terms being complied with by
the Nashville and Chattanooga Railroad Company,
the Judge of this Court is hereby directed to dismiss
the appeal and *supersedeas* now pending in the Su-
preme Court of the State of Tennessee at Nashville. 28

Which foregoing preamble and resolution was adopted by a vote of 42 to 5, as follows:

(Here follows names. Ayes, 42; noes, 5.)

CIRCUIT COURT OF THE UNITED STATES,

WESTERN DISTRICT OF TENNESSEE.

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis and Charleston Railroad Company 1

vs.

The Memphis & Charleston Railroad Company *et al.*

Condition of State Treasury of Tennessee.

Cash on hand	January 1st,	1879,	. .	$461,532.61	2
“ “	February	“ “	. .	413,645.12	
“ “	March	“ “	. .	457,073.93	
“ “	April	“ “	. .	468,379.60	
“ “	May	“ “	. .	358,600.57	
“ “	June	“ “	. .	348,169.96	
“ “	July	“ “	. .	322,825.38	
“ “	August	“ “	. .	245,755.01	
“ “	Sept'r	“ “	. .	258,209.89	
“ “	October	“ “	. .	240,160.10	
“ “	Novem'r	“ “	. .	228,444.32	3
“ “	December	“ “	. .	211,308,78	
“ “	January	“ 1880,	. .	201,613.06	
“ “	February	“ “	. .	175,453.60	
“ “	March	“ “	. .	184,421.60	
“ “	April	“ “	. .	190,515.94	
“ “	Close of business Ap'l 3,'80,			195,010.28	

I certify that the above is a correct statement of the condition of the Treasury, at the time designated. 4

M. T. POLK,
Treasurer of Tenn.

Stipulation.

UNITED STATES CIRCUIT COURT, 1

EASTERN DISTRICT OF TENNESSEE.

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the East Tennessee and Virginia Railroad Company,

vs. 2

The East Tennessee, Virginia and Georgia Railroad Company.

Calvin Amory Stevens *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the East Tennessee and 3
Georgia Railroad Company,

vs.

The East Tennessee, Virginia and Georgia Railroad Company.

4

5

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Cincinnati and Cumberland Gap and Charleston Railroad Company,

vs.

6 THE CINCINNATI, CUMBERLAND GAP AND CHARLESTON RAILROAD COMPANY *et al.*

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee,
7 issued to the Knoxville and
Railroad Company.

vs.

THE KNOXVILLE AND
RAILROAD COMPANY *et al.*

8

CALVIN AMORY STEVENS *et al.*, on behalf of the holders of Internal Improvement Bonds of Tennessee, issued to the Memphis and Charleston Railroad Company

vs.

THE MEMPHIS & CHARLESTON RAILROAD COMPANY *et al.*

It is hereby stipulated by and between the parties to the above-entitled suits, in order to avoid the trouble, expense and delay of formal proof, that the following facts are to be taken as proven in these causes :

First.—That up to the passage of the Internal Improvement law, February 11, 1852, the State of Tennessee had never defaulted upon the interest of her public debt, and the straight bonds of the State were, before such date, and thereafter, quoted on New York stock exchange as follows :

13 Quotations of sales of Tennessee State bonds taken from the official reports of the New York Stock Exchange—

DATE OF SALE.			AMOUNT OF SALE.	PRICE.
1850	April	23	1,000 6s	105
"	May.........	29	1,000 6s	104
"	July	15	1,000 6s	104
"	Nov.	4	2,000 6s	101¼
1851	March.......	27	5,000 6s	100⅛
"	April........	3	10,000 6s	100½
"	May	17	2,000 6s	100½
1852	Feb'y	24	1,000 6s	102
"	April	9	7,000 6s,'90	105
"	May........	31	2,000 5s	92
"	June........	17	2,000 6s	110
"	July.........	19	2,000 5s	92
"	Dec..........	9	5,000 6s,'68	106
1853	June		3,000 6s,'90	108
"	July		7,000 6s	105⅝

14

15

Second.—That with the exception of some interest paid in 1867 and 1868, and some paid in 1874 and 1875, the State of Tennessee has paid no interest upon any of its obligations since the commencement of the late war, and the coupons of the bonds of these complainants, up to the first day of January, 1876, and since the beginning of the war, except that paid by the State in 1867-8, and in 1874-5,
16 as previously stated, has nearly all been funded into new bonds of the State of Tennessee under the various funding Acts of said State.

Third.—That the prices of Tennessee State bonds at the New York Stock Exchange in each month from April, 1870, to December, 1875, and during the first six months of 1879, were as follows:

1870. 17

	New.	Ex. coup.	Old.	Highest price	Lowest price	Average price	
April..........	2193			57⅛	51	542.68673	
		299		61	58	579.47909	
May..........	2415			57¼	54¼	562.28571	
		260		70	59¾	614.53365	
June..........	5865			65¾	57¼	612.13162	
		783		67⅜	61¾	630.47254	
July..........	3621			68¼	58⅜	634.76311	
		643		70	61	628.29121	
August........	860			62⅜	59¾	567.43023	
		312		64	60	618.42147	18
September......		196		62¾	61¾	622.21938	
	633			61	60	605.21936	
October.......	331			61	60	604.68277	
			1	62¼	62⅛	622.50	
		142		62⅞	62¼	626.70774	
November	529			60¼	55¼	580.82884	
			150	62	57	604.25	
December.....	1370			64¾	57¼	614.08941	
			328	65	69	622.51143	

1871.

	New.	Old.	Highest price.	Lowest price.	Average price.	19
January............	1039		64¾	61	634.45741	
		542	64⅝	62¾	638.75922	
February...........	360		64¾	62¾	639.57500	
		305	64⅞	64	643.40983	
March	555		65⅝	63⅝	642.78378	
		323	65⅝	63⅝	642.98761	
April	582		67⅞	65½	664.06357	
		438	67⅜	65⅝	662.82534	
May.................	1385		72⅝	67⅛	703.12454	
		761	72⅝	67¼	713.71287	
June................	972		73	70⅛	715.75874	
		344	73⅛	71	718.16133	
July	158		72⅜	71½	718.81329	20
		179	72¾	71½	719.81843	
August	371		76⅝	73	750.55256	
		234	76	73	748.63782	
September	232		75	71⅛	723.58297	
		241	74⅞	71	729.83402	
October		357	72	64¼	660.65826	
	799		71¾	63½	671.89299	
November...........		272	68	64	659.97702	
	467		68½	64	654.30942	
December		330	67¼	61	638.54924	
	519		67	61¼	639.28709	

1872.

	Old.	New.	Highest price.	Lowest price.	Average price.
January	212		68	63½	652.77122
		373	67¾	63½	653.67962
February	216		67¼	65½	668.28472
		607	67⅞	65½	652.54736
March	88		67	66	666.78840
		184	67⅛	66	667.88043
April	268		70½	66¾	677.66790
		104	70¼	66¾	687.07932
May	421		73½	68¼	718.23337
		460	73½	68¼	714.25
June	298		75	72	737.26929
		149	75	72	731.27576
July	176		75	72½	733.79261
		232	75⅛	72¾	723.16271
August	155		74½	73¼	737.91934
		320	75	73¼	737.77734
September	143		74	72	728.07692
		140	74⅛	71	728.08928
October	223		75⅛	72½	732.99887
		203	75½	72½	731.60714
November	226		76	73	739.05973
		132	76¼	73½	747.23484
December	233		82½	76	794.71861
		178	83	76	811.59410

1873.

	Old.	New.	Highest price	Lowest price	Average Price.
January	226		82¼	79¼	806.58834
		244	82½	79¾	807.80737
February	217		83½	79	805.36784
		735	83½	78½	798.79591
March	768		86	80	820.55826
		1066	87	79½	819.00689
April	204		80¾	77½	797.67769
		145	80¼	78½	792.83482
May	145		82	79	812.09482
		240	82	78½	810.03645
June	51		81	79	797.30392
		187	80½	78½	792.26604
July	74		81¾	80¼	809.40878
		174	81½	79¾	810.
August		101	82¼	81⅝	820.27227
	30		82½	81¾	822.
September	23		82⅜	72	798.48484
		100	82¼	72½	803.77500
October	194		75	68	707.20360
		128	74¾	69	716.72851
November	48		72¼	62	665.93750
		141	72½	62	698.74113
December	70		81¼	73	782.03571
		110	81	71¼	780.52272

1874.

	Old.	New Series.	Old Ex. Coupon.	New Ex. Coupon.	New.	Highest Price.	Lowest Price.	Average Price.
January.............	227					81½	79	800.46211
		20				63¾	62	629.60
			16			63½	63	633.12500
				14		63	62½	630.71428
					38	81	79½	803.98026
February............	147					91	81½	867.79061
				18		70¾	66	680.62500
					55	91	82¼	878.81818
			57			71¼	63½	689.94736
		35				71½	63½	684.57142
March		106				71½	68½	700.45990
	148					91¾	89	909.17229
				113		71¼	69½	706.89159
					71	91½	88¼	899.29577
			137			72	68⅝	702.68248
April		118				68	64¼	668.58050
					15	88	84	855.16666
	25					88¾	84	868.10
			56			68½	64	666.98660
				52		67¾	64	644.47011
May................	66					85	82½	832.31060
		64				65½	63	639.55007
			136			65¼	63	641.11213
				96		64¾	61	628.42447
					83	84¼	82¼	833.88554
June...............		126				63½	61	620.46626
			83			63½	61	625.52710
					9	80	79½	795.55555
	12					81	79	804.16666
				49		64	61	617.04081
July		62				59⅝	53	545.48387
			75			60½	53½	570.85
				21		60	54½	571.07142
	4					70	79	790.
					2	54	54	540.
August					5	75½	75½	735.
		57				58.	56	573.66228
				56		58	56	576.46875
	23					78	77	777.82608
			93			58	54½	572.21774
September		43				57	49	545.
				38		57¼	50	548.78289
			31			57½	52	562.09667
	15					77	76	766.
October	1					72	72	720.
			48			55⅝	52	535.78125
				52		56	51	547.88461
		43				56	51	544.85465
November...........			166			57⅞	55	574.05873
	12					75⅜	74¼	748.125
					1	57	55	559.77040
		49				70	70	700.
				111		57⅛	54⅞	558.88513
December	134					60	57	583.56243
				146		60	56½	582.85958
			99			59	57	578.59090

26

27

28

29 **1875.**

	Old.	New Series.	Old Ex. Coupon.	New Ex. Coupon.	New.	Coup. Ex.	Highest Price.	Lowest Price.	Average Price.
January..........		71					55¼	44	499.85915
			137				56⅛	43	513.43078
				193			56	47	521.26295
					2		78¾	78¾	787.50
						15	55½	55½	555.
February........				34			49½	45	472.64705
30			60				50	46	482.58333
		30					48	45	456.70833
	1						67½	67½	675.
March					1		65	65	650.
				54			48¼	47	477.17592
			86				49	47¼	479.89825
		84					48	46	474.22619
April					1		70	70	700.
				69			53⅞	49	529.74657
			115				55	49¾	537.16304
		46					53½	50	517.77173
May............					34		71½	50	507.64705
	68						51¼	50⅛	509.06250
				24			51	49½	501.66666
			44				51¾	50	507.55681
		97					51	49½	502.83814
31 June...........					34		54⅞	45¼	513.12500
	223						55	46	505.19618
		94					54⅜	45	486.59574
July	190						51¼	47½	500.34868
		22					50	47½	487.72727
					85		50⅞	47½	494.41176
August..........					72		53	49⅜	510.31250
	113						53½	50¼	518.86061
		35					52½	50	504.85714
				11			51	50	505.11363
September.......	12						52	51½	517.29166
		18					51	50	508.05555
October.........					49		50	46	470.25510
		47					47⅜	45½	463.24468
	107						48½	52½	501.93925
32 November......		71					46¾	45	463.75
	180						49	45	471.00694
					62		47	45	458.48790
December.......	126						47	40¾	431.18055
					129		45	38¼	422.82945
		91					45	38¼	409.07967

1879

33

	New.	Old.	New Series.	Highest Price.	Lowest Price.	Average Price.
January.............	4			29¾	26	275.93750
		12		37	36	367.08333
			6	28	26	263.33333
February............		19		42	36½	394.21052
	20			28½	25	271.
			30	29	24¾	270.54833
March		5		35⅛	35	350.25
34			40	28¼	25	277.43750
	39			29½	24	259.26282
April		21		39½	34	361.07142
	26			32	30	304.61538
			6	30¾	30	301.25
May ...,...........		68		35½	35	353.80514
	3			33	31¾	323.33333
			16	33	30½	320.93750
June...............		8		35⅛	34	345.15625
	24			32¾	31	314.27083
			3	32	30½	314.16666
July		34		35½	33½	344.00735
			2	32⅝	32½	325.62500
	27			34¼	31	318.14814

The foregoing stipulation is made subject to all 35 legal objections to the materiality and relevancy of the matters therein stated.

EVARTS, SOUTHMAYD & CHOATE,
E. L. ANDREWS.

36

QUARTERMASTER GENERAL'S OFFICE, 1

WASHINGTON, D. C., 28*th Sept.*, 1865.

GENERAL ORDERS,
No. 56.

The following order, by the President of the United States, in relation to the relinquishment of the Government's control over all railroads in the State of Tennessee, and their continuations in adjoining 2
States, now occupied by the United States military authorities, and no longer needed for military purposes, is published for the information of all officers and agents of the Quartermaster's Department.

M. C. MEIGS,
Brevet Major General, U. S. A.,
Quartermaster General.

WAR DEPARTMENT, 3

WASHINGTON, *August 8th*, 1865.

MAJOR-GENERAL GEORGE H. THOMAS,
Commanding Military Division of Tennessee,
Nashville, Tennessee.

GENERAL: 4

It having been determined by the Government to relinquish control over all railroads in the State of

5 Tennessee, and their continuations in adjoining States, that have been in charge of, and are now occupied by, the United States military authorities, and no longer needed for military purposes, you are hereby authorized and directed to turn over the same to the respective owners thereof, at as early a date as practicable, causing, in all cases of transfer as aforesaid, the following regulations to be observed and carried out :

6 1. Each and every Company will be required to reorganize and elect a Board of Directors, whose loyalty shall be established to your satisfaction.

2. You will cause to be made out in triplicate, by such person or persons as you may indicate, a complete inventory of the rolling stock, tools, and other materials and property on each road.

3. Separate inventories will be, in the same man-
7 ner, made of the rolling stock and other property originally belonging to each of said roads, and that furnished by and belonging to the Government.

4. Each Company will be required to give bonds satisfactory to the Government that they will, in twelve months from the date of transfer as aforesaid, or such other reasonable time as may be agreed upon, pay a fair valuation for the Government property turned over to said Companies, the same being first
8 appraised by competent and disinterested parties at a fair valuation, the United States reserving all Government dues for carrying mails, and other service performed by each Company, until said obligations are paid ; and if, at the maturity of said debt, the amount of Government dues, retained as aforesaid, does not liquidate the same, the balance is to be paid by the Company in money.

5. Tabular statements will be made of all expenditures by the Government for repairing each road, with a full statement of receipts from private freights passage, and other sources; also a full statement of all transportation performed on Government account giving the number of persons transported, and amount of freight, and the distance carried in each case—all of said reports or tabular statements to be made in triplicate, one each for the Secretary of War, the Military Headquarters of the Department, and the Railroad Company. 9 10

6. All railroads in Tennessee will be required to pay all arrearages of interest due on the bonds issued by that State, prior to the date of its pretended secession from the Union, to aid in the construction of said roads, before any dividends are declared or paid to the stockholders thereof.

7. Buildings erected for Government purposes on the line of railroads, and not valuable or useful for 11 the business of said companies, should not form a legitimate charge against such companies; nor should they be charged for rebuilding houses, bridges, or other structures which were destroyed by the Federal army.

8. You are authorized to give any orders to Quartermasters within your Division, which you may deem necessary to carry into execution this order. 12

By order of the President:

EDWIN M. STANTON,
Secretary of War.

GENERAL ASSEMBLY OF TENNESSEE.

HOUSE BILL NO. 542.

SESSION OF 1868-9.

WITH THE

ACTION OF THE HOUSE AND SENATE THEREON,

INCLUDING THE

REPORT OF JUDICIARY COMMITTEE.

W. H. WISENER, Chairman.

FEBRUARY 19, 1869.

HOUSE BILL No. 542.

A Bill to liquidate the State Debt Contracted in aid of Railroad Companies in the State of Tennessee.

WHEREAS, under the General Internal Improvement Laws of the State, passed from time to time, aid has been granted to various railroad companies by the loaning of the six per cent. bonds of the State, to enable said companies to iron, equip, build and bridge, and for other purposes, which is now secured to the State by a first mortgage, or lien, on the franchise, property, and fixtures of the respective railroad companies, and whereas it is desirable for the general welfare of the State that the

State shall be reimbursed for such amounts as have been advanced to the different railroad companies as fast as may be practicable; therefore,

Sec. 1. *Be it enacted by the General Asssmbly of the State of Tennessee*, That the respective railroad companies, or either of them, that have created indebtedness to the State, are hereby authorized to repay any amount of the principal of such indebtedness as they have respectively created in the bonds of the State, in such amounts and at such times as may be practicable; provided, however, that nothing in this act shall be so construed as to release said railroad companies from any lien which the State may have on the same for any unpaid interest now due on said bonds of the State, authorized to be surrendered by this act.

Sec. 2. *Be it further enacted*, That any railroad company or companies repaying indebtedness due the State under the provisions of this act, are authorized to issue bonds of equal amount and denomination with bonds of the State paid and delivered up for cancellation as hereinafter provided, which said railroad bonds, so issued in lieu of an equal amount of State bonds, shall be certified to by the Comptroller, and entered in a book to be kept for that purpose, with date, number, and amount, and shall be a lien *pro rata* in amount, and of equal validity and effect with the unretired part of the State indebtedness upon such railroad, and all its property, franchises, fixtures and materials.

Sec. 3. *Be it further enacted*, That in order to facilitate the railroad companies that may wish to avail themselves of the provisions of this act in repaying the indebtedness due to the State respectively, they, or any of them, are hereby authorized to consolidate their property, in whole or in part, with other railroad companies, and issue bonds and stock as provided for in the second section of this act, and may adopt the corporate franchise of either of the roads, as the stockholders may elect, and each railroad company paying its indebtedness, and such railroad companies as may consolidate under the provisions of this act are hereby authorized to determine, by a vote of the stockholders of said company or consolidated companies, the number of directors of such company, and elect the same under the new organization, and that the said directors so elected shall, according to the by-laws and rules of said corporation, elect one of their number president of said company.

Sec. 4. *Be it further enacted*, That the Comptroller of the State shall receive from the railroad companies, or any of them, bonds of the State in such amounts as may be presented, and cancel the same in the presence of the officer or agent of the railroad company paying therein, and execute to said railroad company or companies duplicate receipts for the amount and number of said bonds so paid in, and it shall further be the duty of the Comptroller to certify on the bonds of any railroad company or companies repaying indebtedness due to the State, that the same has been paid, and that the bonds so certified are secured by first mortgage; *Provided*, that said railroad companies shall liquidate their indebtedness prior to the maturity of the bonds that have caused said indebtedness; *and be it further provided*, that said bonds, when executed by the respective railroad companies, or either of them, shall be deposited with the Comptroller of the State, whose duty it shall be to deliver said bonds, or any number of them, to the president and directors of the company, or an authorized agent of the company, and the deposit by said president and directors, or authorized agent, an equal amount of the six per cent. bonds of the State of Tennessee, with unpaid coupons attached, and the companies' first mortgage bonds, authorized to be issued by this act, shall have no validity or value except the Comptroller's certificate is affixed on the face of each bond that said bond is executed and issued, and by virtue of law takes the place of a bond of the State, and is a first mortgage bond.

Sec. 5. *Be it further enacted*, That the Comptroller shall be entitled to a fee of one dollar on each thousand dollars of the bonds certified as aforesaid, to be paid by the railroad company for which the same is done, and it shall be lawful for the Comptroller to discharge the duties imposed by this act by and through an agent in the city of New York, and all the provisions of this act shall attach to and become a part of the charter of any railroad company or companies acting under it.

Sec. 6. *Be it further enacted*, That by and with the consent of the board of directors of any railroad company in this State, that has received aid from the State under the general improvement law, passed the 11th of February, 1852, and all the amendments thereto, that any person or corporation may, by paying the indebtedness of such railroad company to the State in bonds of the State as provided for by law, be and they are hereby substituted and entitled to all the liens against said companies for the payment of said debt that the State had or has by law, and the Governor and Secretary of State shall give such party or parties paying said indebtedness, a certificate showing the fact, which shall be evidence against said company of such indebtedness to such individual or corporation.

Sec. 7. *Be it further enacted*, That this act shall take effect from and after its passage.

Amendment No. 1.

Be it further enacted, That any person or persons may, with the consent and approbation of any railroad company which is indebted to, and for which the State of Tennessee holds a lien, pay the said debt, so far as the State is concerned, in the bonds of this State or any mature coupons of bonds at par, and the person or persons so paying the debt of any railroad company, with the consent of such railroad company, shall, upon filing with the Treasurer of this State the written assent of said railroad company, under the corporate seal of said railroad company, be entitled to have and hold all the lien or liens which the State of Tennessee had or has upon said railroad company or its property, and shall have the same right to enforce the same which the State of Tennessee had, the object and intent being to place the person or persons so paying, with the consent of said railroad company, in the same position and with the same rights which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same.

Be it further enacted, That any person or persons who may, with the consent and approbation of any railroad company, pay any part or portion of the indebtedness of such company as provided in section —, shall have, hold and be subrogated in all the rights, privileges and lien or liens of the State, to the extent of, and in proportion to the amount of such indebtedness, with the same rights and privileges the State now has, to the extent of such payment or payments.

Adopted.

Amendment No. 2.

Provided, The passage of this act shall not decrease the lien of the State upon any railroad of the State until the entire claim of the State is fully liquidated, or affect the interest of present bondholders of the State; *provided*, that railroad companies which have issued second mortgage bonds availing themselves of the provisions of this act shall file with the Comptroller bonds of the same series as those loaned to such company, for which the State holds a first mortgage lien; *provided*, the bonds to be issued by the company under the provisions of this act shall not have a longer time to run than the bonds of the State thus released and cancelled.

[ENDORSEMENTS.]

H. Bill No. 542—Richards.

Passed first reading. Internal Improvement. Nov. 16, 1863.

Passed second reading. 200 copies printed. Finance C. Dec. 2, 1868.

Referred Judiciary, Dec. 7, 1868.

Amended and passed third reading. *Senate*, Jan. 19, 1869.

Senate amendment concurred in, Feb. 25, 1869.

[*Senate.*]

Passed first reading, Jan. 22, 1869.

Passed second reading, Jan. 26, 1869.

For rejection, Jan. 30, 1869.

Rejected. Motion entered to reconsider, Feb. 8, 1869.

Vote rejecting Bill—reconsider—unfinished business, 9th Feb., 1869.

Referred to the J. C., Feb. 10, 1869.

Amended and passed third reading, Feb. 19, 1869.

Motion entered to reconsider the vote passing the bill, Feb. 20, 1869-

Vote passing the bill reconsidered. Bill set for 24th of Feb. Feb. 23, 1869.

The vote adopting the amendment of the Judiciary Committee reconsidered and the bill passed third reading and ordered returned to the House, Feb. 24, 1869.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of House Bill No. 542, of the Legislature of 1868-9, with amendments, the original of which is now of record at my office.

In Testimony Whereof, I have hereunto subscribed my official signature, and, by order of the Governor, affixed the great seal of the State of Tennessee, at the department in the City of Nashville, this 3d day of November, A. D. 1880.

[SEAL.]

Chas. N. Gibbs,
Secretary of State.

HOUSE ACTION.

Monday Morning, November 16, 1868.

. . . .

Mr. Richards introduced House Bill No. 542, "To liquidate the State debt, contracted in aid of railroad companies in the State of Tennessee."

Passed first reading, and was referred to the Committee on Internal Improvements.

1918

Wednesday Morning, November 18, 1868.

. . . .

Report from the Committee on Internal Improvements:

Mr. Speaker—Your committee have had under consideration House Bills Nos. 550 and 462, and Senate Bills Nos. 262, 264 and 265, and recommend their passage. Also House Bills Nos. 167 and 485, and recommend their rejection. Also House Bill No. 542, and recommend its passage, with the following amendment: *Provided*, That said railroad companies shall liquidate their indebtness prior to the maturity of the bonds that have caused said indebtedness.

. . . .

Brown, Chairman.

Wednesday, December 2, 1868.

. . . .

House Bill No. 542 was taken up, amendment of the committee adopted, and bill passed second reading.

On motion of Mr. Shepherd, 200 copies of the bill was ordered printed.

Monday Morning, December 7, 1868.

. . . .

House Bill No. 542 was taken up.

Mr. Waters moved to refer it to the Committee on the Judiciary.

Pending discussion on which,

On motion of Mr. Stone,

The House adjourned until 2 o'clock, P. M.

AFTERNOON SESSION.

The motion of Mr. Waters, to refer House Bill No. 542,

Carried.

TUESDAY MORNING, January 19, 1869.

. . . .

Report from the Committee on the Judiciary:

Mr. Speaker—Your committee have had under consideration . . . . House Bill No. 542, to liquidate the State debt, and recommend its passage, with the following amendments: In section 2, as amended, and in the eleventh line, strike out the word "countersigned," and inserted the words, *certified to;* and add to the first section the following proviso: *Provided, however*, that nothing in this shall be so construed as to release said railroad companies from any lien which the State may have on the same, for any unpaid interest now due on said bonds of the State, authorized to be surrendered by this act.

KERCHEVAL, Chairman.

. . . .

House Bill No. 542 was taken up.

The amendment of the committee

Adopted.

Mr. Bosson offered an amendment, in relation to the bonds deposited with the Comptroller, etc.

Adopted.

As amended the bill passed third reading.

Ayes, 58.

Noes, 1.

Those voting in the affirmative, were:

Messrs. Agee, Allen, Anderson, Brown, Blackman, Bloom, Bosson, Carter, Chiles, Carey, Cason, Cordell, Dame, Doughty, Dyer, Faulkner, Griffith, Gilmer, Grayson, Hale, Hodges, Hamilton of Lincoln, Hammer, Hunt, Inman of Cocke, Jordan, Johnson, Kercheval, Medlin, Meyers, McFall, McKinley, Morris, Murry, Mynatt, Mason, Puckett, Poston, Porter, Pitts, Reeves, Reed, Robinson, Ryder, Roach, Roddy, Smith, Sparkman, Taylor of Carter, Thornburgh of Grainger, Thornburgh of Jefferson, Thompson, White of Greene, Woodcock, Walker, Williams, Wines, and Mr. Speaker Richards—58.

In the negative,

Mr. Singletary—1.

The immediate transmission of the bill to the Senate was ordered.

On motion of Mr. Walker.

The House adjourned until 2 o'clock, P. M.

THURSDAY MORNING, February 25, 1869.

. . . .

House Bill No. 542 was taken up on Senate amendments, and the amendments were concurred in.

SENATE ACTION.

FRIDAY MORNING, January 22, 1869.

. . . .

House Bill No. 542 was taken up on its first reading, to wit: "A Bill to be entitled An Act to liquidate the State debt, contracted in aid of railroad companies in the State of Tennessee."

Passed.

TUESDAY MORNING, January 26, 1869.

. . . .

House Bill No. 542, passed second reading, and referred to the Judiciary Committee.

SATURDAY MORNING, January 30, 1869.

. . . .

Reports from the Committee on the Judiciary, to wit:

Mr. Speaker—The Committee on the Judiciary have had under consideration House Bill No. 542, and have instructed me to recommend its rejection. The committee cannot see how the railroad companies are to be benefited by the arrangement proposed by the bill, except by some advantage to be gained at the expense of the State. The Comptroller is required to certify that the bonds of the company have been issued for the bonds of the State, and exchange and certify these facts, not at his office here, but transact the same in New York, by an agent in a distant city, and a person over whom the Legislature can have no control. Again, the bill proposes that the State shall take from the companies, where they have failed to pay the interest, what she may thus have advanced in cash, her bonds lent to said companies. This is certainly a strange proposition, whilst the present policy of the State shall continue. The State issues her bonds, the companies are to pay the interest on them, they fail to do so, and she pays it in money; they can then buy her bonds at, say sixty-five cents in the dollar, and reimburse her in her own paper, issued for their benefit, she, at this rate, paying some fifty per cent. to said companies, or rather, they are making that off the State in the transaction. This must surely greatly affect the credit and resources of the State. The committee, therefore, hope the bill will be rejected.

All of which is respectfully submitted,

WM. H. WEISENR, Sr., Ch'n.

1922

MONDAY MORNING, February 8, 1869.

. . . .

House Bill No. 542 was taken up on its third reading, and rejected.

Ayes, 4.
Noes, 14.

Senators voting in the affirmative were:

Messrs. Matthews, Norman, Rodgers, and Underwood—4.

Senators voting in the negative were:

Messrs. Cate, Frierson, Fuson, Garner, Henderson, Keith, Lindsley, McCall, Nelson, Patterson, Parker, Smith, Wyatt, and Mr. Speaker Senter—14.

Mr. Fusson entered a motion to reconsider the vote rejecting House Bill No. 542.

TUESDAY MORNING, February 9, 1869.

. . . .

On motion of Mr. Matthews, the motion entered to reconsider the vote rejecting House Bill No. 542, on third reading, was taken up.

The vote was then reconsidered and the bill taken up.

Pending the further consideration of the bill,

Mr. Lindsley moved an adjournment until 9½ o'clock A. M. to-morrow.

Lost.

Ayes, 6.
Noes, 12.

Senators voting in the affirmative were:

Messrs. Cate, Fuson, Lindsley, Patterson, Parker, and Rodgers—6.

Senators voting in the negative were:

Messrs. Eaton, Eckel, Garner, Henderson, Keith, Matthews, McCall, Nelson, Norman, Smith, Underwood, and Mr. Speaker Senter—12.

Mr. Garner moved an adjournment until 9 o'clock A. M. to-morrow.

Carried.

Ayes, 10.
Noes, 8.

Senators voting in the affirmative were:

Messrs. Cate, Eckel, Fuson, Garner, Henderson, Lindsley, Norman, Patterson, Parker, and Underwood—10.

Senators voting in the negative were:

Messrs. Eaton, Keith, Matthews, McCall, Nelson, Rodgers, Smith, and Mr. Speaker Senter—8.

WEDNESDAY MORNING, February 10, 1869.

. . . .

The unfinished business (House Bill No. 542) was taken up. Mr. Aldridge offered an amendment, which was referred, with the bill, to the Judiciary Committee.

FRIDAY MORNING, February 19, 1869.

. . . .

Report from the Judiciary Committee, to wit:

Mr. Speaker—The Committee on the Judiciary have had under consideration House Bill No. 542, recommitted to them, and after further investigation they have instructed me to recommend a bill in lieu of both bill and accompanying amendment, and that the bill proposed in lieu be passed. If the bill in lieu be adopted, no difficulty will be encountered; and if the companies are able, as some of them say they are, to substitute their own bonds for

1924

those of the State in the money market, of course they can comply with the terms proposed in the bill in lieu. It is said that the bonds of some of the companies who desire the passage of the bill are better, or will bring more in the market, than the State securities. Of course if this be so they will have no difficulty in exchanging their own bonds for those of the State, and in that view they will have no difficulty in complying with the requirements of the bill in lieu. The bill proposes to give, so far as the State can do so, the same lien that she has for her own bonds, to the company whenever it takes up all the bonds issued to such company.

The Committee cannot perceive any valid objection to allowing the companies to issue their own bonds to take up those of the State which are a lien upon the road, if done in good faith, except that the State thereby becomes jointly a mortgagee with such company or its bondholders. This is a very serious objection in more lights than one. In the first place the State should never be a joint mortgagee or partner in any transaction. It complicates her business, and she greatly suffers thereby.

But, then, in a proceeding by the bondholders to foreclose their mortgage, they cannot make the State a party, and might proceed against the road alone, and sell to pay their securities. This is a remote probability, however. Yet, in the embarrassed condition of the roads, and the treasury, such a contingency might happen.

However, if the companies shall procure the bonds issued to them, and which are a lien on the road of the company offering them, perhaps no great harm could result, and that much of the State debt would be paid and extinguished.

But the committee are of opinion that the bonds of the State taken up should be delivered at the capitol in the presence of the Governor, Comptroller, Secretary of State, and Treasurer, and a record made of them ; and that they should, in the presence of the parties aforesaid, with their coupons attached, if any, be defaced or destroyed.

All of which is respectfully submitted,

WM. H. WISENER, Sr.,
Chairman.

House Bill No. 542 was taken up on third reading.

The following amendment, offered by Mr. Aldridge, to the bill, and referred to the Judiciary Committee was adopted, to wit:

Be it further enacted, That any person or persons may, with the consent and approbation of any railroad company which is indebted to the State, for which the State of Tennessee may have a lien, pay the said debt, so far as the State is concerned, in the bonds of this State, or any matured coupons of bonds at par ; and the person or persons so paying the debt of any railroad company, with the consent of such railroad company, shall, upon filing with the Treasurer of this State the written assent of said railroad company, under the corporate seal of said railroad company, be entitled to have and hold all the lien or liens which the State of Tennessee had or has upon said railroad company, or its property, and shall have the same right to enforce the same, which the State of Tennessee had, the object and intent being to place the person or persons so paying, with the consent of said railroad company, in the same position, and with the same rights which the State of Tennessee had previous to and before the said payment, and with full power to enforce the same.

Be it further enacted, That any person or persons who may, with the consent and approbation of any railroad company, pay any part or portion of the indebtedness of such company, as provided in sectiion ——, shall have, hold, and be subrogated in all the rights, privileges, and lien or liens of the State, to the extent of and in proportion to the amount of such indebtedness, with the same rights and privileges the State now has, to the extent of such payment or payments.

Mr. Cate offered the following amendment, to wit:

Provided, The passage of this act shall not decrease the lien of the State upon any railroad of the State until the entire claim of the State is fully liquidated, or affect the interest of the present bondholders of the State.

Adopted.

Mr. Senter offered the following amendment, to wit:

Provided, that railroad companies, which have issued second mortgage bonds, availing themselves of the provisions of this act, shall file with the comptroller bonds of the same series as those loaned to such company, for which the State holds a first mortgage lien. *Provided*, the bonds to be issued by the company, under the provisions of this act, shall not have a longer time to run than the bonds of the State thus relieved and canceled.

Adopted.

The following is the amendment proposed by the Judiciary Committee, to wit:

Sec. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the respective railroad companies may relieve themselves from liability to the State, to the extent of the bonds hereinafter authorized to be taken up by producing to the Governor, Comptroller, Secretary of State and Treasurer, for cancellation and destruction, the bonds of the State issued to such company, and which are a lien upon the road bed and property of such company, with unpaid coupons attached, and when the whole amount of said bonds thus issued to said company, shall have been thus produced and cancelled or destroyed, and any lien the State may have for interest paid by her, for such company, shall have been paid, said railroad company may issue its own bonds to that amount, in such manner and time as they may see proper, and which, so far as the State is concerned, may be and are hereby declared to be a lien on the roadbed and other property, as fully and completely as the State now has, and can convey or transfer to such company or its bondholders.

Sec. 2. *Be it further enacted*, That if any company in this State shall produce any amount of the bonds of this State, issued to said company, and which are a lien on the property of said railroad company, with coupons attached, to the Governor, Comptroller, Secretary of State, and Treasurer, the same may be cancelled and destroyed, the company may issue its own bonds for a like amount, payable at such time and in such manner as the bonds of the State issued to said company, and produced by it for cancellation, and the bonds thus issued shall, so far as the State is concerned, be a lien upon the property of said company, as such bonds thus taken up and cancelled were.

Sec. 3. *Be it further enacted*, That nothing herein contained shall be construed to weaken, or in any manner destroy, the lien or mortgage the State has on the property of said railroad company, and by accepting the provisions of this act, the companies agree to the same.

Sec. 4. *Be it further enacted*, That the State hereby reserves a superior lien to any given in the second section of this act, for any payments of interest she may have made for any of the companies applying for the benefits of said section.

Sec. 5. *Be it further enacted*, That no bonds issued under the second section of this act shall have the effect therein provided for, unless it is certified on said bonds by the Comptroller, and countersigned by the Secretary of State, with the seal of the State attached, and attested by the Governor, and if this be not done, the said bonds thus issued shall be of no force or validity against the State, or any lien it may have on the property of such railroad company, nor against the holder of the bonds of the State having a lien on the property of said company.

Sec. 6. *Be it further enacted*, That any railroad companies of the State may consolidate, by the consent of the stockholders of the respective companies, and assume the name of either company, and from and after their consolidation, they may continue their corporate existence, with all the rights, privileges and exemptions, and be subject to all the liabilities, restrictions and obligations of the companies whose name they assume; but when they are thus consolidated, and assume the new name, no further State bonds shall issue to said companies, by way of loan or otherwise, unless afterwards authorized by express legislation for that purpose.

Adopted.

Ayes, 10.
Noes, 9.

Senators voting in the affirmative were:

Messrs. Frierson, Fuson, Garner, Henderson, Lindsley, Lyle, Nelson, Patterson, Parker, and Wisener—10.

Senators voting in the negative were:

Messrs. Aldridge, Cate, Eaton, Keith, Matthews, McCall, Norman, Underwood, and Mr. Speaker Senter—9.

Mr. Aldridge moved to lay the bill on the table. Lost.

Ayes, 6.
Noes, 14.

Senators voting in the affirmative were:

Messrs. Aldridge, Keith, Matthews, McCall, Norman and Underwood—6.

Senators voting in the negative were:

Messrs. Cate, Eaton, Frierson, Fuson, Garner, Henderson, Lindsley, Lyle, Nelson, Patterson, Parker, Wisener, Wyatt and Mr. Speaker—14.

The bill then passed third reading.

Ayes, 13.
Noes, 7.

Senators voting in the affirmative were:

Messrs. Cate, Frierson, Fuson, Lindsley, Lyle, Matthews, McCall, Nelson, Patterson, Parker, Wisener, Wyatt and Mr. Speaker Senter—13.

Senators voting in the negative were:

Messrs. Aldridge, Eaton, Garner, Henderson, Keith, Norman and Underwood—7.

TUESDAY MORNING, February 23, 1869.

. . . .

Mr. Aldridge moved to take up the motion entered to reconsider the vote passing House Bill No. 542, on third reading.

Carried.

Ayes, 9.
Noes, 8.

Senators voting in the affirmative were:

Messrs. Aldridge, Eaton, Keith, Matthews, McCall, Nelson, Norman, Underwood and Wyatt—9.

Senators voting in the negative were:

Messrs. Frierson, Fuson, Garner, Henderson, Lindsley, Patterson, Parker and Mr. Speaker Senter—8.

The vote passing the bill was then reconsidered.

Ayes, 11.
Noes, 6.

Senators voting in the affirmative were:

Messrs. Aldridge, Eaton, Henderson, Keith, Matthews, Nelson, Norman, Parker, Underwood, Wyatt, and Mr. Speaker Senter—11.

Senators voting in the negative were:

Messrs. Frierson, Fuson, Garner, Lindsley, McCall and Patterson—6.

On motion of Mr. Garner, the bill was made the special order for to-morrow at 2½ o'clock P. M.

WEDNESDAY, MORNING, February 24, 1869.

. . . . . .

House Bill No. 542 was taken upon its third reading.

Mr. Aldridge moved to reconsider the vote adopting the amendment offered by the Judiciary Committee.

Carried.

The amendment was then rejected.

Ayes, 4.
Noes, 13.

Senators voting in the affirmative were:

Messrs. Fuson, Garner, Keith and Wisener—4.

Senators voting in the negative were:

Messrs. Aldridge, Cate, Eaton, Frierson, Henderson, Matthews, Nelson, Norman, Patterson, Parker, Underwood, Wyatt and Mr. Speaker Senter—13.

The bill then passed third reading.

Ayes, 14.
Noes, 5.

Senators voting in the affirmative were:

Messrs. Aldridge, Cate, Eaton, Fuson, Henderson, Keith, Matthews, McCall, Nelson, Norman, Patterson, Parker, Underwood and Wyatt—14.

Senators voting in the negative were:

Messrs. Frierson, Garner, Lindsley, Wisener and Mr. Speaker Senter—5.

The bill was then ordered returned to the House of Representatives.

Saturday Morning, February 27, 1869.

. . . .

Message from the House of Representatives:

Mr. Speaker—I am directed by the House of Representatives to return herewith House Bill No. . . . . . 542 . . . . for the signature of the Speaker of the Senate.

Geo. Edgar Grisham,
P. C. of the H. of R.

I, C. N. Gibbs, Secretary of the State of Tennessee, do certify that the foregoing is a copy of the action of the House and Senate on House Bill No. 542 of the Legislature of 1868-9, the original of which is now of record at my office.

In testimony whereof, I have hereunto subscribed my official signature; and by order of the Governor, affix the Great Seal of the State of Tennesse, at the Department in the city of Nashville, this 3d day of November, A. D., 1880.

Secretary of State.

I, C. N. GIBBS, Secretary of the State of Tennessee, do certify that the foregoing is a copy of the action of the House and Senate on House Bill No. 542 of the Legislature of 1868-9, the original of which is now of record at my office.

In testimony whereof, I have hereunto subscribed my official signature; and by order of the Governor, affix the Great Seal of the State of Tennesse, at the Department in the city of Nashville, this 3d day of November, A. D., 1880.

Secretary of State.

W

114-683

Vol. 4.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~[illegible]~~ ~~357~~ 46

CALVIN AMORY STEVENS AND JOHN T. TERRY
Appellants,
vs.
THE NASHVILLE AND NORTH WESTERN RAILROAD COMPANY AND THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF TENNESSEE.

FILED OCTOBER 8, 1881.

4

1931

C. A. STEVENS

VS.

Tennessee Railroads.

VOL. I.

STATUTES

AND

Public Documents.

NEW YORK:
American Bank Note Co.
1881.

TABLE OF CONTENTS.

PART I.

Act of January 2, 1830, to establish a Board of Internal Improvements, etc. 1

PART II.

Tennessee Constitution of 1834, Art. 11, sec. 9 4
Act of February 19, 1836, to encourage Internal Improvements 5
Act of January 19, 1838, to establish a State Bank, etc 7
Act of January 26, 1838, supplementary to last act 29
Act of January 25, 1840, to repeal all laws authorizing the Governor to subscribe for stock, etc 35
Act of January 28, 1840, to provide for the collection of demands due the State, etc 44
Act of February 5, 1842, directing Internal Improvements books to be transferred from Secretary of State to Comptroller 46
Resolution of December 27th, 1843, authorizing Board of Internal Improvements to compromise with Murfreesboro, M. & W. T. P. Co 49
Act of January 27th, 1844, authorizing Bank of Tennessee to draw upon State Treasurer in case of deficiency 50
Act of January 30, 1844, for collection of State's dividends on its stock in Internal Improvements 51
Act to appoint commissioners to investigate Internal Improvement companies 54
Resolution of January 23, 1846, requesting Attorney General to sue delinquent companies 56
Act of February 2, 1846, to incorporate the Memphis and Charleston R. R. Co 57
Act of January 25, 1850 to give further time to McM. & C. T. P. Co., etc 58
Act of February 25, 1852, to amend an act to incorporate the N & M. F. T. P. Co., etc 59

PART III.

Act of February 4, 1848, to amend an act entitled an act to authorize Hopkins and others to open a turnpike, etc 60
Act of February 8, 1854, to amend an act, passed February 11, 1852, entitled "an act to establish a system of Internal Improvements," etc 63

PART IV:

Act of January 30, 1850, to charter the Owen & Winstead T. P. Co., etc. 64
MS. copy of Senate Bill, No. 186, to encourage a system of Internal Improvements, together with entries on Journal 68
Extract from Message of Gov. N. S. Brown, October 5, 1849 111
Extract from Message of Gov. Wm. Trousdale, October 22, 1849 116
Act of February 9, 1850, to relieve the Bank of Tennessee, to purchase State Bonds, etc. 120
Extract from Message of Gov. Wm. Trousdale, October 9, 1851 122
Extract from Message of Gov. Wm. Campbell, October 28, 1851 125
Extract from Comptroller Crozier's report on total State liabilities, October, 1851 131
Act of January 15, 1852, to authorize the Governor to issue State bonds to E. T. & Va. R. Co., to build bridges 131
MS. copy of act of January 15, 1852, with history of its passage, from the Public Journals 138
Act of February 11, 1852, to establish a system of Internal Improvements 188
MS. Copy of foregoing, with history of its passage 204
Act of February 21, 1852, authorizing renewal of certain State bonds 235
Code of Tennessee, secs. 209-212, as to Comptroller's duties 235
Code of Tennessee, secs. 194, 197, sub. secs. 18 and 19, as to duties Secretary of State 236
Act of February 26, 1852, to charter the Chattanooga, B. S. & C. R. R. Co 237
Act of February 8, 1854, to amend Internal Improvement act of February 11, 1852 238
Act of February 17, 1854, to amend charter of M. & S. T. P. Co., etc. 243
Act of October 29, 1855, to amend 2d sec, of above act of February 8, 1854 243
Act of November 26, 1855, to amend Internal Improvement act of February 11, 1852 244
Act of November 27, 1855, to extend time for receiving State aid by L. & N. R. R. Co 246
Act of January 19, 1856, t. amend Internal Improvement Acts of 1852 and 1854 248
Act of January 30, 1856, explanatory of 16th sec. of Internal Improvement act of February 11, 1852 250
Act of February 18, 1856, to amend an act to establish an Agricultural Bureau, etc. 251
Act of February 21, 1856, to aid in constructing a railroad from Chattanooga to the E. T. & Ga. R. R., etc. 256

Act of February 26, 1856, amending act chartering So. West. R. R. Co., etc. 263
Act of February 29, 1856, to regulate and define the duties of Road Commissioners 267
Code of Tennessee—provisions of, as to Internal Improvements... 269
Report of Internal Improvement Committee, November 4, 1857... 275
Act of March 17, 1858, authorizing surplus bonds to be applied to the constructton of the road 278
Extract from Message of Gov. Johnson, of October 6, 1857, on the subject of the Bank of Tennessee 278
Extract from Report of J. T. Dunlap, Comptroller, of October, 1859, on subject of State debt, etc 280
Extract from Report of J. T. Dunlap, Comptroller, of October, 1859, on subject of bonds and coupons 283
Extract from Report of J. T. Dunlap, Comptroller, of October, 1859, on subject of Sinking Fund for Railroads 286
Extract from Message of Gov. Isham G. Harris, October 4, 1859, on Liabilities of the State 290
Act of March 20, 1860, to provide for the equalization, etc., of the sinking fund on State bonds issued to railroads 295
Message of Gov. Isham G. Harris, January 16, 1861, recommending suspension of sinking fund, etc 298
Extract from Report of J. T. Dunlap, Comptroller, January 22, 1861, upon the subject of the State paying interest on bonds in case of defaulting railroad companies 300
Act of February 1, 1861, for the relief of railroad companies, receivers and others 301
Act of May 7, 1861, to amend the railroad laws 302
Act of July 1, 1861, authorizing Bank of Tennessee to receive and pay out Confederate money 302
Extracts from Report of J. T. Dunlap, Comptroller, October, 1861, on subject of interest due from railroad companies 303
Extracts from Message of Gov. Wm. G. Brownlow, April 6, 1865.. 306
Joint Resolution of May 5, 1865, appointing commissioners to settle with L. & N. R. R. Co. 310
Settlement with Louisville and Nashville Railroad Co., made and reported Nov. 18, 1865 311
Joint Resolution appointing a committee to examine into the condition of the sinking fund 314
Act of November 23, 1865, amending Internal Improvement act of February 11, 1852 315
Act of January 18, 1866, amending Internal Improvement act of February 11, 1852 318
Act of May 24, 1866, incorporating the Tennessee and Pacific Railroad Co., etc. 321
Act of December 10, 1866, amending Internal Improvement act of January 18, 1866 322

Act of February 18, 1867, amending Internal Improvement act of November 23, 1865 325
Act of March 7, 1867, amending charter of M. & C. R. R. Co., etc 325
Extract of Message of Gov. Wm. G. Brownlow, on railroads 328
Extract from Report of Comptroller Blackburn, October 1, 1867 329
Act of December 7, 1867, to amend Internal Improvement act of February 11, 1852 335
Act of December 13, 1867, relating to railroad receivers 339
Act of February 5, 1868, defining powers of State Directors in railroad companies 340
Act of March 13, 1868, to liquidate the State debt 343
Extract from Comptroller Blackburn's Report, August 6, 1868 345
Extract from Message of Governor Wm. G. Brownlow, on railroads 365
Act of January 26, 1869, to amend Internal Improvement act of February 11, 1852 367
Act of January 28, 1869, to replete the number of directors in railroad companies 368
Act of February 25, 1869, to liquidate the State's railroad debt 369
Act of October 26, 1869, to change mode of appointing receivers 374
Act of December 8, 1869, to repeal all laws granting State aid to Internal Improvements 376
Act of December 9, 1869 (private), to confirm lease of N. &. N.W. R. R. by N. & C. R. R. Co. 377
Act of December 16, 1869, to amend sec. 1102 of Code, etc 384
Act of January 20, 1870, for the payment of the State debt 387
Extract from House Journal, showing amendments to above original act 389
Act of February 4, 1870, to regulate the appointment of State directors in railroad companies 390
Act of February 22, 1870, for the relief of the N. & D. R. R. Co 392
Act of February 24, 1870, to fund the floating debt of the State 392
Act of June 30, 1870, to amend an act to regulate the appointment of State directors 395
Act of July 1, 1870, authorizing the sale and transfer of the State's interest in delinquent railroad companies 395
Act of July 7, 1870, for the relief of solvent railroads that have paid interest on their bonds 399
Act of July 7, 1870, to enforce sec. 33, art. 2, of the Constitution 400
Act of July 8, 1870, appointing commissioners to lease delinquent railroads 401
Act of July 8, 1870, directing Attorney General to institute suit against receivers 403
Act of December 16, 1870, to amend act of February 24, 1870, to fund the floating debt of the State 405

Report of State Railroad Commissioners........................ 405
Act of December 21, 1870, to amend the act of July 1, 1870, for the sale of the State's interest in delinquent railroad Companies... 413
Act of January 18, 1871, directing suits to be brought against railroad companies that have fraudulently obtained State bonds... 419
Act of February 1, 1871, to provide for the purchase of railroads by the State... 423
Act of February 1, 1871, to amend acts for the sale of the State's interest in railroads.................................. 424
Act of February 2, 1871, to encourage the retirement of the State debt incurred from State railroad bonds.................. 426
Act of November 9, 1871, providing for the consolidation of railroad companies and the issuance of bonds afterwards......... 428
Act of November 17, 1871, providing for the cancellation of bonds, etc.. 430
Act of December 11, 1871, granting certain powers to existing railroad companies....................................... 431
Act of December 13, 1871, enabling railroad companies to pay their debt to the State, and complete their roads.................. 433
Extracts from Message of Gov. Jno. C. Brown, 1871............. 435

PART V.

Code of Tennessee, secs. 2030, (sub. sec. 7,) 2075................ 439
Constitution of 1834, art. 11, sec. 7.......................... 440

PART VI.

Constitution of 1834, art. 1, sec. 17.......................... 440
Act of February 28, 1856, providing a remedy in favor of private individuals against the State................................ 441
Code of Tennessee, sec. 2807, relating to suits against the State.... 442
Act of June 10, 1865, repealing above section.................. 442
Act of February 21, 1873...................................... 442

PART VII.

Code, sec. 1758, statute of frauds............................ 444

PART VIII.

Act of 1851, of State of Missouri, to expedite the construction of the Pacific Railroad, and of the Hannibal and St. Joseph railroad.. 445

IX.

MS. copy of act of July 22, 1857, of State of Minnesota, to execute the trust created by an act of Congress, entitled "an act making a grant of land to the Territory of Minnesota, etc., to aid in the construction of a certain railroad in that State."…. 451
Bill to change the name of the Root River Valley and Southern Minnesota Railroad Company…. 490
Minnesota State Constitution, art. 9, sec. 10…. 491
MS. copy of Minnesota State bond…. 496
MS. copy of South Minnesota Railroad Company mortgage…. 497

PART X.

Act of South Carolina of December 20, 1856, to aid in construction of the Charleston and Savannah Railroad…. 504

PART XI.

Act of United States of July 1, 1862, to charter the Union and Pacific Railroad Company…. 508

PART XII.

Report of Joint Select Committee of Tennessee Legislature upon the offices of Comptroller and Secretary of State…. 529

Internal Improvement System

OF THE

STATE OF TENNESSEE.

PART I.

Public Acts 1829, Chapter 75, Page 103, Passed January 2, 1830.

AN ACT to establish a Board of Internal Improvement, and set apart one hundred and fifty thousand dollars to be appropriated to the improvement of the navigable rivers, and other objects of internal improvement in this State.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That there shall be elected, by the joint ballot of the present Legislature, six Commissioners, two east of Cumberland mountain, two west of said mountain, and two west of Tennessee river, and that they be and are hereby appointed and constituted a Board of Internal Improvement for this State, to be denominated the President and Directors of the Board of Internal Improvement, and shall have perpetual succession, and a common seal, and shall be capable of suing and being sued, pleading and being impleaded, and possess and enjoy all the rights of a corporation, subject to the entire control and disposition of the General Assembly.

Sec. 2. *Be it enacted*, That the sum of one hundred and fifty thousand dollars of the unappropriated funds derived from the sale of the lands in the Hiwassee District, be, and the same is hereby, set apart as a fund for internal improvement, and to be appropriated in the following manner, to wit: sixty thousand dollars of said fund to be appropriated in that part of the State lying east of Cumberland mountain, denominated and known as East Tennessee; sixty thousand dollars in that part of the State lying west of Cumberland mountain and east of the Tennessee river, denominated and known as Middle Tennessee; and thirty thousand dollars in the part lying west of the Tennessee river, and denominated and known as the Western District, in such manner as shall or may be hereafter provided by the Legislature.

Sec. 3. *Be it enacted*, That the Governor of the State, for the time being, shall be ex-officio President of the Board of Internal Improvement; that the directors, a majority of whom shall constitute a board to transact business, shall have power to fill vacancies during the recess of the General Assembly, and in the absence of the Governor to elect a President pro tempore from their own body; and said board shall have power to appoint a secretary, whose duty it shall be to keep a faithful record of the proceedings of said board, who shall be allowed the same compensation for his services as a member of said board.

Sec. 4. *Be it enacted*, That the Board of Directors for Internal Improvement shall meet at ——— on the —— day of ——— next, and thereafter at least once in each and every year, at such time and place as may be agreed on by the majority of said board, and in future shall be elected once in two years, by joint ballot of both Houses of the General Assembly, and receive the sum of two dollars per day for their services while attending the session of said board, and two dollars for every twenty-five miles traveling to and from the same.

SEC. 5. *Be it enacted*, That said board shall have power to appoint a civil and topographical engineer, who shall superintend all public works of internal improvement, which the General Assembly may from time to time direct, and make surveys and estimates of such rivers, ground for canals and roads as may be required of him or them by the orders of said board or the General Assembly, make the estimates of the cost and expense of the same, and submit it to the examination of said board at their meeting.

SEC. 6. *Be it enacted*, That the Governor, for the time being, shall have power to convene the said board by proclamation or notice in the public newspapers at any time when, in his opinion, the public interest in relation to the progress of internal improvement may require their convention.

SEC. 7. *Be it enacted*, That the Board of Internal Improvement shall have power to enact and establish such by-laws, rules and regulations for their government and proceedings, and the regulations of their officers, agents, or others in their employ, as to them may seem proper from time to time, provided they are not inconsistent with the Constitution and laws of this State.

SEC. 8. *Be it enacted*, That said board shall keep a full record of their proceedings, which shall at all times be subject to the inspection of the Governor, any member of the board, or of the General Assembly; and shall make a report to the General Assembly during the first week of every session thereof, showing the state of the funds that have or may be appropriated for internal improvement, the surveys, plans, and estimates that have been made, and the expense or cost of each, that may have been recommended to their examination by the General Assembly, together with such other information as may be in their power to communicate in relation to the objects contemplated.

EPHRAIM H. FOSTER,
Speaker of the House of Representatives.
JOEL WALKER,
Speaker of the Senate.

PART II.

TENNESSEE CONSTITUTION OF 1834, ARTICLE 11, SECTION 9.

SEC. 9. A well-regulated system of internal improvement is calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens; therefore it ought to be encouraged by the General Assembly.

PUBLIC ACTS 1835, CHAPTER 22, PAGE 108, PASSED FEBRUARY 19, 1836.

AN ACT to encourage Internal Improvement in this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That in all cases where any joint stock compony has been or may hereafter be incorporated by the Legislature of this State, for the purpose of constructing any work or works of Internal Improvement, by means of railroads or macadamized turnpike roads, within the limits of the same, and two-thirds of the capital stock of such company or companies shall have been subscribed by individuals or other incorporated companies, and in the opinion of the Governor, Comptroller, Treasurer and Secretary of State, shall be well secured, it shall be the duty of the Governor to subscribe, on behalf of the State, for the remaining third of such capital stock, and to execute bonds of the State, which shall be signed officially by the Governor and countersigned by the Secretary of State, with the seal of the State affixed, and payable twenty-five years after the execution thereof to the president and directors of such companies, or their assignees, bearing an interest of five and one quarter per cent. per annum, which shall be payable semi-annually at the office of the Treasurer of Tennessee; which said bonds shall be delivered to the president and directors of such company or companies as the said stock shall be called for and required to be paid in by other stockholders, by said board of directors, and such bonds shall be in like manner executed and delivered on each successive call made as aforesaid, and the said bonds shall be received in full payment of the several installments as they may be called for by said board: *Provided*, the said company or companies shall agree and stipulate to pay the interest semi-annually, as the same shall accrue and be payable: *And provided also*, the interest so paid upon the said bonds of the State by said company, together with five per cent. per annum interest on said amount so paid, shall be deducted from the dividends of the net profits to which the State will be entitled on its stock as the same may be declared: *And provided also*, the Governor shall execute the said bonds for any amount not less than one thousand dollars, as the said company may desire: *And provided also*, that the amount so subscribed as aforesaid shall be expended within the limits of Tennessee.

SEC. 2. *Be it enacted*, That until the redemption of said bonds, the dividends declared on the stock of the State, except so much as shall have been applied to the payment of the interest as above set forth, shall be regularly paid over to the treasurer of the State, by him to be applied to the redemption of said bond.

SEC. 3. *Be it enacted*, That the Governor shall be authorized to appoint, on the part of the State, such number of directors as the stock subscribed according to the provisions of this act shall entitle the State to have in any of said companies, who shall have the same power and authority as directors elected by the other stockholders.

SEC. 4. *Be it enacted*, That nothing in this act shall be so construed as to authorize the Governor to subscribe for more stock in any such company or companies, than so much as may be necessary to complete one-third part of such work of internal improvement as shall be located within the limits of Tennessee.

EPHRAIM H. FOSTER,
Speaker of the House of Representatives.
JONATHAN WEBSTER,
Speaker of the Senate.

PUBLIC ACTS 1837-8, CHAPTER 107, PAGE 153, PASSED JANUARY 19, 1838.

AN ACT to establish a State Bank, to raise a fund for Internal Improvement, and to aid in the establishment of a system of Education.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That a Bank shall be and is hereby established, in the name and for the benefit of the State, to be known under the name and style of "The Bank of Tennessee," and the faith and credit of the State are hereby pledged for the support of said Bank, and to supply any deficiency in the funds hereinafter specifically pledged, and to give indemnity for all losses arising from such deficiency.

SEC. 2. *Be it enacted,* That the capital of said Bank shall be five millions of dollars, to be raised and constituted as follows: the whole of the Common School Fund, whether the same is vested in stock in the present banks in the State, or in the hands of the Superintendent of Public Instruction, or in the hands of the county agents or other persons, except so much as may have been vested in any works of internal improvement, as well as the proceeds of the Ocoee lands, shall constitute a part of the capital of the bank of Tennessee; the surplus revenue on deposit with the State, together with the unexpended interest thereon, shall also constitute a part of the stock of saidBank; and in addition to these amounts a sum shall be raised in specie, or funds convertible into specie at par value, on the faith of the State, sufficient to make the whole capital five millions of dollars; *Provided*, that if the fourth instalment of the surplus revenue, apportioned under the act of Congress, approved 23d June, 1836, should be deposited with this State, the amount received shall be added to and constitute a part of the capital of said Bank, and be an addition to the capital stock of five millions of dollars above specified; *Provided further*, that the stock owned by the State, in the Union Bank, shall not constitute any portion of the capital of the Bank of Tennessee.

SEC. 3. *Be it enacted*, That the money belonging to the Common School Fund, which now may be in possession of the Superintendent of Public Instruction, or which may hereafter come into his possession, shall be handed over to the president and directors of the Bank of Tennessee, as capital in said Bank, and said president and directors, or a majority of them, shall be authorized and required for and in behalf of the State, and with a pledge of the public faith and credit, to issue to the superintendent aforesaid State stock or certificates of debt, for such such sum or sums as may be from time to time paid over by the said superintendent to the said president and directors; and the Governor of the State, the Comptroller of the Treasury, and the Superintendent of Public Instruction, shall dispose of the stock in any and all the banks of the State, belonging to the common school fund, whenever the same can be sold at par for specie, or funds convertible into specie, at par value, and pay over the proceeds to the president and directors of the bank, who shall issue certificates of stock to the superintendent of public instruction aforesaid; *Provided*, that any dividends on the same, which shall not be declared at the time of sale, shall not be sold with the stock, but the same shall be received by the superintendent and paid over to the president and directors of the bank, and shall constitute a part of the contingent fund, to meet the annual or semi-annual liabilities of the bank, as shall also the interest and dividends which may hereafter arise on any portion of the capital of the school fund, before said capital is paid over to the president and directors of said bank; and in like manner the superintendent of public instruction shall pay over the proceeds of the sale of the Ocoee lands as they are received, and take certificates of stock; *Provided*, that if a system of common schools shall be adopted and put into operation, by the present General Assembly, the fund which may accrue after the year 1837, for the benefit of common schools, from the bonuses of the present banks, and bonuses and dividends arising from other incorporate companies, and from privileges, fines, penalties and taxes, shall constitute part of the annual fund for distribution by the superintendent, and shall not be subscribed in stock in the State Bank. But should the system of common schools not be adopted as aforesaid, then said funds to be vested in stock in said bank, until otherwise directed by the General Assembly.

SEC. 4. *Be it enacted*, That it shall be the duty of the comptroller of the treasury to draw from the Union Bank, the Planters Bank, and the Farmers and Mechanics Bank, the amount of the surplus federal revenue now on deposit with said banks, in two yearly instalments; the first instalment to be drawn on the 1st of January, 1839, each instalment to be drawn in specie, or funds convertible immediately into specie, at par value; and as soon as each instalment is received, he shall pay over the same to the president and directors of the State Bank, and receive certificates of stock, which shall be kept by him for the benefit of the State; *Provided*, that if the said banks, or either of them, shall fail or refuse, upon demand made as aforesaid, to pay over the surplus, or any part which may be demanded at th times aforesaid, then the comptroller shall direct suits to be instituted by the Attorney General of the State, for the amount so withheld, together with the ten per cent. authorized by their charters; and until said instalments are demanded, the present banks shall hold the surplus at the rate of six per cent. per annum, payable half yearly, and the interest so accruing shall constitute a part of the sinking fund hereinafter designated.

SEC. 5. *Be it enacted*, That it shall be the duty of the Governor of the State, on behalf of the State, to execute the bonds of the State, for two and a half millions of dollars, which bonds shall be signed officially by the Governer, and countersigned by the secretary of state. with the seal of the state affixed, and payable thirty years after date, to the president and directors of the Bank of Tennessee, or their assigns, bearing an interest not exceeding six per centum per annum, which shall be payable semi-annually, at the office of the Treasurer of Tennessee, or at such other place within the limits of the United States, as the president and directors may select, which said bonds shall be delivered to the president and directors of said bank; *Provided*, the Governor shall execute said bonds of any amount, not less than one thousand dollars each, and payable in such denomination of money as the president and directors may require; which bonds and also those hereafter directed to be issued, to pay for stock in internal improvement companies, shall be made payable to, and be sold and disposed of by the president and directors of said bank, for specie, or funds convertible into specie without loss, and shall not be sold at a discount. And whenever any State bonds may be issued for the benefit of any internal improvement company, as hereinafter directed, the Governor shall deliver them to the president and directors of the bank, and the full amount thereof at their nominal value, when the proceeds are received by the bank, shall be placed to the credit of the company for whose benefit such bonds may be issued, and any premium for which such bonds may be sold, shall inure to the benefit of the State; *Provided*, that at the end of ninety days after any bonds may have been delivered to the bank, such bonds have not been sold at par as herein provided for, then the president and directors of the bank shall, on application of the president and directors of the internal improvement company for which such bonds were issued, deliver the same to them upon their receiving them in payment of the State's subscription at their nominal value; or the said president and directors of the bank may, at their election, pay such internal improvement company the amount of such bonds, at their nominal value, and retain the same to be kept or disposed of for the benefit of the State.

SEC. 6. *Be it enacted*, That immediately after the location of the principal bank and branches, the Governor of the State shall nominate and appoint twelve persons to act as directors, more than one-third of whom shall in no case be merchants; and which nomination and appointment shall be subject to confirmation or rejection by the General Assembly, and the twelve persons so nominated and confirmed shall constitute the directors—one of whom shall be president, who are hereby incorporated, and made a body politic and corporate, by the name and style of "The President and Directors of the Bank of Tennessee," and shall so continue until the first day of January, 1868, and by that name shall sue and be sued, plead and be impleaded, and they are hereby made able and capable in law, to have, receive, purchase, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, and the same to sell, grant, demise, alien or dispose of; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure, also to ordain, establish and put in execution such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of said corporation, not being contrary to the laws and constitution of the State, or the United States.

SEC. 7. *Be it enacted*, That the president and directors as elected, shall continue in office for two years, and until their successors are nominated and confirmed as aforesaid.

SEC. 8. *Be it enacted*, That of the dividends which shall be declared by the bank, one hundred thousand dollars shall be annually set apart for common schools, and the faith of the State is hereby pledged, for an annual appropriation of said amount to common schools, to be applied as the General Assembly may direct. Of the dividends of the bank remaining, there shall be annually appropriated for thirty years, and no longer, or not so long, if the bank should not continue so long in operation, eighteen thousand dollars to county academies, to be applied as the General Assembly may direct, and the faith of the State is hereby pledged for the annual payment of said sum; *Provided*, the trustees of the respective county academies in the several counties of this State, shall relinquish to the State all claims which they have against the State of Tennessee, for the debt due to those institutions from citizens residing south of French Broad and Holston, and west of Big Pigeon rivers, and all claims they may have to lands in the Ocoee District, as well as all claims which they have against said citizens, which relinquishment shall be filed in the office of the secretary of state, and the proceeds of two half townships of land in the Ocoee district, reserved by the act disposing of said lands for the use of colleges and academies, shall be set apart for and given to the East Tennessee College and Nashville University, upon the trustees of said institutions executing such relinquishments, as are herein directed for the academies; and provided further, that such of said institutions as shall relinquish, as herein provided for, shall be entited to their rateable proportion of the fund herein appropriated, according to the terms of said appropriation, and on such further conditions as the present General Assembly may prescribe, in the event the federal government shall hereafter relinquish to the State of Tennessee, the vacant lands south and west of the congressional reservation line, an amount of forty thousand dollars, out of the sale of those lands, shall be set apart as a perpetual fund for the support of a college in the western district; *provided*, that the general government in the act of relinquishment shall grant to the use of such college the appropriation herein made. The balance of the dividends shall be set apart as a sinking fund, to be applied to the extinguishment of the accruing interest on the bonds of the State, whether the same have been executed under any former act, or may be executed under this act.

SEC. 9. *Be it enacted*, That the following powers, rules, conditions, limitations and restrictions shall be fundamental laws of said bank, viz:

ARTICLE 1. The board shall select one of their number to preside over their deliberations, who shall be elected by a majority of the directors present, of whom not less than five shall constitute a quorum to do business; and no person not a citizen of this State, or who is a stockholder or director of any other bank, or co-partner of any such director in trade and merchandise, shall be eligible as a director; *Provided*, should it so happen that any director should be appointed who is a stockholder or director in any other bank, his seat shall be considered vacant, and the place filled by the other directors as in other cases of vacancy; *and provided further*, if any director appointed as aforesaid shall, during his continuance in office, purchase stock or become a director in any other bank, his seat shall be vacated, which shall be filled by the directory as in other cases.

ART. 2. The president and directors for the time being, shall have power to elect and remove the cashier, and they shall also have power to appoint such officers, clerks and servants under them as shall be necessary for executing the business of the said corporation, and allow them such compensation for their services as may be reasonable.

Art. 3. No director shall be entitled to any emolument, but the directors for the time being shall have power to make such compensation to the president of the bank, for his extraordinary attendance at the bank and superintending its concerns, as shall to them seem reasonable. No discount shall be made when the cashier may be a maker or endorser.

Art. 4. They shall receive money on deposit, and pay away the same to order, free of expense, deal in bills of exchange, and buy and sell any of the State stock now issued, or that may hereafter issue, and discount notes at said bank with two or more good endorsers thereon, at a rate of interest not exceeding six per cent. per annum ; *Provided*, that this article shall not be construed so as to prevent the said bank from demanding and receiving a reasonable premium for exchange, in addition to the interest, upon bills or notes payable at a point beyond the limits of this State. *Provided, also*, that said bank or either of said branches, never shall purchase and have running to maturity, or on hand, a greater amount of bills of exchange than the amount of notes under discount.

Art. 5. The total amount of debts which said corporation shall at any time owe, whether by bond, bill, note or contract, shall not exceed twice the amount of the capital stock paid in at the time over and above the moneys on actual deposit for safe keeping. Nor shall the entire amount of the risk or investment or securities in what form soever (save and except actual current coin), at any time exceed twice the amount of the capital stock paid in.

Art. 6. In case of excess the directors under whose administration it shall happen, shall be liable for the same in their private capacities, and an action of debt may in such case be brought against them or any of them, or their heirs, executors or administrators, in any court of this State having jurisdiction, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant and agreement to the contrary notwithstanding. But this shall not be so construed to exempt said bank, or the lands, tenements, goods or chattels of the same, and on their insufficiency, the State of Tennessee being also liable for, and being chargeable with the said excess; such of the executors who may have been absent when said excess was contracted or created, shall be exonerated from individual liability—or who may have dissented from the resolution or act by which the same was contracted or created, may respectively exonerate themselves from being individually liable, by entering, if present, their dissent on the books of the bank, at the time the debt may be so contracted, and forthwith give notice of the same to the Comptroller of the State.

Art. 7. In case of vacancy, occasioned by the death, resignation or removal out of the State or otherwise, of any director, a majority of the directors shall fill such vacancy, and the director so appointed shall hold his office during the unexpired term of the director so vacating; and in case of sickness or necessary absence of the president, the board may appoint a president for the time.

Art. 8. The directors shall keep fair and regular minutes of their proceedings, in a well-bound book, and on questions where two directors shall request it, the yeas and nays shall be ordered; and on all such questions every member present shall be required to vote; and these minutes shall at all times be produced on the demand of the Legislature, or any committee legally authorized to require the same.

Art. 9. Every president and cashier, before he enters on the execution of his duty, shall give bond with two or more securities, to the satisfaction of the directors, payable to the Governor of the State, in a sum not less than one hundred thousand dollars, conditioned for the faithful performance of his duty; and the tellers and clerks shall give like security in a sum not less than twenty thousand dollars, which bonds shall be filed and recorded in the Secretary's office.

Art. 10. The president, directors and cashier, and all other officers of the principal bank and branches, shall take and subscribe the following oath, on entering on the duties of their respective offices: "I, A B, do solemnly swear or affirm, that I will faithfully discharge the trust reposed in me as ——— of the Bank of Tennessee, and that I will not willfully or knowingly violate any direction or provision of the charter thereof, So help me God."

Art. 11. All bills, bonds and notes of the corporation shall be signed by the president and countersigned by the cashier thereof, and the funds of the bank shall in no wise be held responsible therefor, unless the same shall be executed as aforesaid.

Art. 12. The bills or notes which it shall be lawful for said corporation to issue and circulate, shall not be for a less denomination than five dollars, and after the first day of January, 1841, not less than ten dollars.

ART. 13. The board of directors shall be capable of exercising such other powers and authorities as may be necessary for the well governing and ordering the affairs of the said corporation, and of promoting its interests and credit.

SEC. 10. *Be it enacted*, That the bills obligatory or of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their name or names, and bills or notes which may be assigned by order of the said corporation, signed by the president and countersigned by the cashier thereof, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same in like manner and with the like force and effect as upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons; that is to say, those which are or shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner as foreign bills of exchange now are, and those which are or shall be payable to bearer, shall be negotiable and assignable by delivery only.

SEC. 11. *Be it enacted*, That it shall be the duty of the president and directors of the principal bank and branches, to furnish to the General Assembly, within the first week of every regular session, statements of the amount of the capital stock of said corporation, and of the debts due the same, of the moneys deposited therein, of the notes in circulation, and of the cash on hand, together with all other property of said bank, both real and personal, and the General Assembly shall have the right to inspect all such accounts in the bank as relate to the transaction of said principal bank and branches, and shall, whenever it may be deemed necessary, appoint a joint committtee of both houses of the General Assembly for that purpose, with full power to send for persons and papers; and it shall be the duty of the Comptroller to inspect all accounts of the principal bank and branches, as often as he may please; and it shall and is hereby declared to be his duty, faithfully to report all and every violation of the fundamental rules of this corporation to the Legislature.

SEC. 12. *Be it enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold or silver coin, shall be receivable at the treasury of this State, and by all tax collectors and other public officers, in all payments for taxes or other moneys due to the State.

SEC. 13. *Be it enacted*, That a majority of the members present, at any regular meeting of the directors of the principal bank and branches, may suspend any director with a view to his expulsion, and any member may be expelled, at a meeting of the board of directors specially convened by the president for that purpose, as soon after such suspension takes place as practicable; but such expulsion shall not be made by a majority of less than two-thirds of the whole number of directors.

SEC. 14. *Be it enacted*, That it shall be the duty of the Comptroller to make a biennial report to the Legislature on the subject of the principal bank and branches, and if in his opinion the transactions of the principal bank and branches, or any particular circumstance relating thereto, shall require it, he shall apply to the General Assembly for a select committee, who shall take into consideration any matters relating to the principal bank and branches, submitted to them by the Comptroller, and report thereon, at the discretion of the Legislature; and the Comptroller shall be furnished by the principal bank and branches with a general statement of their condition, once in every month.

SEC. 15. *Be it enacted*, That it shall be the duty of the president and directors of the bank to publish quarterly in some newspaper, the state and condition of the bank and its branches.

SEC. 16. *Be it enacted*, That if any president, director or cashier, or other officers of the said bank, or any of its branches, shall embezzle or fraudulently convert to his or to their own use, any sum of money, bank note, bill of exchange, check, bond, or other security, placed under his care and management, the person so offending, his aiders, abetters and counsellors, upon conviction thereof, shall be adjudged guilty of felony, and be sentenced to imprisonment in the State penitentiary, for a term not less than three years, nor more than twenty-one years, the term to be fixed at the discretion of the jury trying said offence, and shall forever thereafter be disqualified from holding any office of profit or trust in this State, and shall moreover be liable for the sum embezzled.

SEC. 17 *Be it enacted*, That the sums discounted on notes with two or more sufficient securities, as provided for by this act, shall be apportioned, as far as practicable, among the several counties in this State, annually, in proportion to the qualified voters and the president and cashier of the bank or branch shall give notice in some public paper printed in the county in which the bank or branch may be located, stating the amount that each county may be entitled to borrow, within ten days after the right to borrow in manner aforesaid may arise; and should the sum, or any part thereof, to which any county shall be thus entitled, be not applied for within fifteen days after such notice, by the inhabitants thereof, by presenting bills or notes for discount, with good endorsers, then it may be discounted as aforesaid, to any person or persons applying for the same. The principal bank and three branches shall be located in Middle Tennessee, two branches of the said bank in the Western District, and two branches in East Tennessee.

SEC. 18. *Be it enacted*, That the lands, tenements, and hereditaments which it may be lawful for said corporation to hold, shall be only such as shall be requisite for its immediate accommodation for the transaction of its business, and such as have been *bona fide* mortgaged to it by way of security for, or conveyed to it in satisfaction of debts previously contracted in the course of ordinary banking business, or purchased at sales upon judgments or decrees rendered in favor of said bank.

SEC. 19. *Be it enacted*, That it shall be the duty of the Governor, as soon as the directors are appointed of the principal bank and branches, to convene the several boards of the same by advertisement in some newspaper, giving ten days' notice thereof, at the place the bank or branch may be located, for the purpose of carrying this act into effect.

SEC. 20. *Be it enacted*, That whenever the president and directors of any company incorporated for the purpose of internal improvement, shall negotiate any bonds executed under the provisions of this act, it shall be their duty to notify the president and directors of the bank, of the place at which the interest on said bonds is stipulated to be paid, which shall be within the limits of the United States, and the president and directors of the bank shall provide for the payment of the interest aforesaid, out of the dividends of the bank; *Provided*, that if there shall be a surplus of the dividends, after setting apart the amount appropriated to common schools and academies, and after paying the interest on the bonds of the State, the same shall be held by the bank as a contingent fund to be appropriated at any time when there may occur a deficiency in the dividends for the purposes aforesaid; *And provided also*, that if at any time there shall be a deficiency in the dividends to liquidate the accruing interest on the State bonds, and the contingent fund shall be insufficient for such purpose, such deficiency shall be made up out of any uninvested dividends that may have been declared on the stock owned by the State, in the several works of internal improvement; and if there should still be a deficiency, the same shall be made up by the individual stockholders of the several roads in which the State has subscribed for stock, in proportion to the amount for which the State may have issued her bonds in each, the amount so paid by the several companies to be reimbursed out of the first dividends declared in favor of the State on her stock in said companies.

In the event the dividends of the bank and the profits arising from the stock of the State in internal improvements shall prove insufficient to liquidate the interest on the bonds of the State issued for the purpose of internal improvement, it shall be the duty of the Governor to notify the president and directors of such companies in which the State has subscribed for stock, at least three months before the interest will become payable on the State's bonds, of the probable deficit, and of the amount which will be required of each company to be paid in order to meet the interest on the bonds of the State, and upon receiving such notice from the Governor, it shall be the duty of the president and directors of each and every company thus notified, forthwith to make a call upon the individual stockholders, for an amount equal to the sum claimed by the Governor, in his notice to said companies, which sum or sums of money shall be paid at the time, place and manner required by the Governor, and upon failure thereof, by any of said companies, to meet the instalment thus required, it shall be deemed and taken to be a forfeiture of the interest of the individual stockholder or stockholders thus failing to pay the instalment called for by the Governor; *And provided further*, that no State bonds shall be issued for the payment of State stock, in works of internal improvement, under the provisions of this act, until the bank hereby established shall go into operation.

SEC. 21. *Be it enacted*, That the State of Tennessee shall become a subscriber for one-half of the capital stock in all railroads, macadamized turnpikes, graded turnpikes and sanded turnpikes, for which acts of incorporation have heretofore been granted, or for which acts of incorporation may hereafter be granted; *Provided*, that the subscription on the part of the State shall not exceed one thousand dollars per mile on graded turnpikes, nor seven hundred and fifty dollars per mile in sanded turnpikes; *Provided also*, the subscription by the State to the Charleston and Cincinnati railroad, and the Hiwassee railroad, shall not exceed one million three hundred thousand dollars, to be equally divided between them, and to be expended within the State of Tennessee.

Sec. 22. *Be it enacted*, That whenever the Governor shall be notified in writing by the president and directors of any company, for the construction of railroads, macadamized turnpikes, graded turnpikes, or sanded turnpikes, that one-half of the capital stock of said company has been subscribed for, thereupon the Governor shall appoint a number of directors, not to be stockholders, equal to the number elected by individual stockholders, and if in the opinion of two-thirds of said entire board, the payment is well secured by the individual stockholders, or that the individual stockholders are good and solvent persons, and fully able to pay the amount of stock subscribed for by each of them, and that they have paid ten per cent. upon the stock, the Governor of the State is hereby authorized and empowered, and required to subscribe on behalf of the State for the amount provided for in the foregoing section; and from the date of the subscription by the Governor, the State shall have a lien upon the property of each individual stockholder, to the amount of the stock owned by each, and upon the failure of any stockholder to pay any subsequent instalment after the first, such failure shall not operate as a forfeiture of the stock, unless the president and directors shall so agree, but payment shall be enforced by the president and directors, and no transfer or assignment of stock shall defeat the said lien; *Provided*, that said lien shall cease after the individual stockholders shall have paid in one-half their stock.

SEC. 23. *Be it enacted*, That whenever the indididuai stockholders of any of the said companies in which the State has become a stockholder under this act, shall have paid five per cent. in addition to the ten per cent. heretofore provided to be paid, making fifteen per cent. upon the amount of their stock, and the president and directors of such company shall notify the Governor of that fact, he is hereby authorized and required to issue the bonds of the State, signed officially by him and countersigned by the Secretary of State, with the seal of the State, payable thirty years after execution, and bearing an interest of five per cent. per annum, payable semi-annually at the office of the Treasurer of Tennessee, or such other places as the president and directors negotiating the same may designate, for an amount equal to fifteen per cent. of the stock subscribed by the State in said company, and deliver said bonds to the president and directors of said company, in full payment of fifteen per cent. of the State subscription. And upon the further payment of fifteen per cent. upon the stock of individual stockholders in any of said companies, the Governor shall issue the bonds of the State for fifteen per cent. more of the stock of the State, in the same manner and under the same rules, regulations and restrictions as hereinbefore provided; and upon the further payment of five per cent. or more upon the stock of individual stockholders, the Governor is authorized and required to issue the bonds of the State for the like proportion of the stock due by the State, under the same rules, regulations and restrictions as before. And in like manner the amounts paid by individuals and the State, at the several subsequent calls, shall be equal, until the whole amount required to complete the work is paid in; and from time to time he shall take the receipts of the president and directors for the several sums as paid. So soon as the president and directors of the Louisville, Cincinnati and Charleston Railroad Company shall certify to the Governor of the State, that the stockholders of said company have paid in five per cent. on their stock, the Governor of the State shall subscribe on behalf of the State, six hundred and fifty thousand dollars in stock in said company, and shall issue bonds of the State to said company for five per cent. on the State stock so subscribed, subject nevertheless to the conditions hereinafter provided. And as soon as the president and directors of the Louisville, Cincinnati and Charleston Railroad Company, or a board of directors appointed by said company, to construct that part of the road lying within the limits of Tennessee, shall certify to the Governor that a sum has been paid in for the construction of said road within the limits of Tennessee, by individual stockholders upon their stock, equal in amount to fifteen per cent. upon the amount to be subscribed by the State, the Governor shall execute the bonds of the State to said company for the amount of fifteen per cent. of the six hundred and fifty thousand dollars of stock to be subscribed by the State. And whenever individual stockholders in said road shall have paid in a further sum upon their stock, equal in amount to fifteen per cent. upon their stock subscribed by the State, the Governor shall issue the bonds of the State for fifteen per cent. of the remaining stock of the State; and upon the further payment by individual stockholders of an amount equal to five per cent. or more on stock subscribed by the State, the Governor shall issue bonds for five per cent. or more of the State stock, and so on in like proportion until the whole amount is issued, all of which is to be laid out within the limits of the State. And whenever the president and directors of the Hiwassee Railroad Company shall notify the Governor in writing, of the amount of stock subscribad by individuals in said company, the Governor shall subscribe for an equal amount of State stock; *Provided*, such amount does not exceed six hundred and fifty thousand dollars, subject to the same rules as to issuing the bonds of the State as is pointed out by this act for the government of other railroads and macadamized turnpike companies; *Provided*, that if the six hundred and fifty thousand dollars should not be subscribed by individuals for stock in said company, and a certicate of that fact made out to the Governor on or before the first day of October next, agreeably to the provisions of this act, so as to authorize the Governor to subscribe for the full amount of the six hundred and fifty thousand dollars in said company, the Governor shall subscribe for an equal amount of stock in said road, as is or shall be subscribed by individuals, and certified as is directed by the 21st and 22d sections of this act, and the remainder of the six hundred and fifty thousand dollars shall be subscribed by the Governor to any macadamized, sanded or graded turnpike road company in East Tennessee that shall bring themselves within the provisions of this act. And the Governor is hereby authorized from time to time, to constitute and appoint proxies to vote for directors in said Louisville, Cincinnati and Charleston Railroad Company, and such proxies shall give all other votes he may be authorized to do by virtue of such appointment agreeable to the provisions of said charter. *And provided further*, that if the Louisville, Cincinnati and Charleston Railroad Company, or the Hiwassee Railroad Company, or either of them, shall fail to obtain the subscription on the part of the State on or before the first day of January, 1839, then and in that case, it shall be the duty of the Governor to subscribe for stock in such turnpike roads in East Tennessee as may bring themselves within the general provisions of this act.

SEC. 24. *Be it enacted*, That the State of Tennessee shall have a lien on the entire works of said companies respectively, for the amount so paid in by the State. And in all, the profits, rents and tolls of said companies shall inure to the benefit of the State, until individual stockholders shall have paid in their entire stock in said companies respectively; *Provided*, the right and lien on the part of the State to the entire profits, rents and tolls of the several works, shall not inure until twelve months after the execution of the bonds of the State, for the last installment on her stock as aforesaid, and then only to the extent of that portion of the individual stockholders who have not paid up the entire amount of their stock, and to remain no longer than said defaulting stockholders fail to pay the same.

SEC. 25. *Be it enacted*, That the stock to be taken by the State in the several improvements, shall not exceed four millions of dollars, to-wit: one million four hundred thousand dollars in East Tennessee, one million six hundred thousand dollars in Middle Tennessee, and one million of dollars in the Western District; *Provided*, that one hundred thousand dollars shall be raised upon the bonds of the State, and be expended as a portion of the fund allotted to East Tennessee upon the rivers in East Tennessee, as the General Assembly may hereinafter direct; *And* *provided also*, that one hundred thousand dollars of the fund alloted to the Western District of Tennessee, be expended upon the rivers in that part of the State, as the General Assembly may hereafter direct; *And provided*, that one hundred thousand dollars of the fund alloted to Middle Tennessee shall be appropriated to rivers of Middle Tennessee.

Sec. 26 *Be it enacted*, That the profit arising upon the stock owned by the State in the several works of internal improvement, shall constitute a fund to be applied to the redemption of the bonds of the State executed and to be executed for raising the bank capital herein provided for, and the internal improvement bonds of the State.

JOHN COCKE,
Speaker of the House of Representatives.
TERRY H. CAHAL,
Speaker of the Senate.

PUBLIC ACTS 1837-8, CHAPTER 108, PAGE 166, PASSED JANUARY 26, 1838.

AN ACT supplementary to an Act to establish a State Bank to raise a fund for Internal Improvements, and to aid in the establishment of a system of Education.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the president and directors of the principal bank shall locate the branches and appoint twelve directors for each branch of the Bank of Tennessee, of whom one shall be from each of the counties adjoining the one in which the branch is located; *Provided*, that it shall not reduce the number in the county in which the branch is located to less than seven, who shall remain in office for twelve months, and until their successors are appointed and qualified in the way, possess the qualifications, be subject to the disqualifications and liabilities, and shall have the powers and perform the duties so far as the same apply, as the directors of the principal bank. And the board of directors of the branches respectively shall be under the same rules and regulations as the board of directors of the principal bank; but the board of directors of the branches may make necessary by-laws for their government, not inconsistent with this act and the act to which this is a supplement, and not inconsistent with the controlling power given to the principal bank over said branches; vacancies in the board of directors at the branches shall be filled by the boards at the branches respectively; the officers and servants of the branches shall be appointed by the board of directors at the branches; officers and servants of the branches shall be qualified, and be subject to the same penalties as officers and servants of the principal bank.

SEC. 2. *Be it enacted*, That when the five millions of capital stock shall be paid in, the president and directors of the principal bank shall pay over to the several branches of said bank, at least four hundred thousand dollars each as the capital respectively of said branches; *Provided*, it shall be the duty of the president and directors of the principal bank, to employ three millions two hundred and fifty thousand dollars of the capital stock at the different branches, when the whole is paid in, and if upon the report of the president and directors of any branch or branches, authorized to be located by this act, or the act to which this is a supplement, the sum of four hundred thousand dollars cannot be employed at any of such branches, so as to yield, after defraying all expenses, a net profit of eight per cent., it shall in such case be the duty of the president and directors of the principal bank to withdraw so much thereof as cannot be profitable used, and to transfer the same to such other branch or branches where it can be used best for the interest of the bank and the people, subject to be withdrawn and employed and transferred to any other branch or branches where the same can be used most profitably; *Provided also*, the president and directors of the principal bank shall not employ more than one million seven hundred and fifty thousand dollars at the principal bank, unless it shall appear from the reports of the branches that the amount beyond the said sum cannot be employed at a net profit of at least eight per cent. at any or all of the branches; *Provided further*, that the president and directors shall not reduce the amount of capital of either of the branches to a less sum than three hundred thousand dollars. The first distribution of capital shall be made to the branches when the principal bank shall go into operation, and of the first distribution of capital derived from the sale of the State bonds, at least two hundred thousand dollars shall be paid over to each branch; and not more than seven hundred and fifty thousand dollars shall be retained by the principal bank for banking purposes.

SEC. 3. *Be it enacted*, That each of said branches shall make semi-annual dividends of the net profits, which shall forthwith be paid to the principal bank, who shall provide for the payment of the interest on the state bonds, and the annual dividends for the support of academies and common schools, as provided for by the act to which this is a supplement.

Sec. 4. *Be it enacted*, That whenever, in the opinion of the president and directors of the principal bank, a change of policy in the management of any particular branch or of the whole is required for the general benefit of the institution, they shall have power to call a convention of delegates from all the branches, to be composed of one member from each board of the branches, and the president and directors of the principal bank, to consult and advise in relation to the same, and whatever may be determined on by a majority of said convention, the same shall be the governing policy of the institution.

Sec. 5. *Be it enacted*, That within thirty days after the appointment of the directors of the different branches, it shall be the duty of the president of the principal bank to call a convention of delegates from the branches, to be composed of the president of each of the said branches and the president and directors of the principal bank, whose duty it shall be to adopt the necessary rules for the intercourse between said principal bank and branches. The proceedings of said convention shall be entered of record at the principal bank by ayes and noes.

Sec. 6. *Be it enacted*, That in all cases the funds received as capital by the president and directors of the principal bank, from time to time, shall be distributed in the aforesaid proportions, in kind and value, to the respective branches; and in like manner, when the principal bank shall negotiate any bonds for internal improvement purposes, the funds procured shall be distributed in the same proportion in kind and value to the branches, upon their placing the proper amount to the credit of the internal improvement companies in their books.

SEC. 7. *Be it enacted*, That the notes to be issued by the Bank of Tennessee for circulation, shall be signed by the president and countersigned by the cashier of the principal bank, and the same may be made payable at such place or places as shall be deemed most advisable by the board of directors of the principal bank. The notes of the bank or branches shall be received in payments of debts to the principal bank or branches; *Provided*, that if at any time the President and directors of the principal bank shall deem it to the interest of the institution, they may authorize the president and cashier of any branch or branches to sign and countersign any or all of the notes to be issued for circulation by such branch or branches; *Provided further*, that in furnishing the branches with notes to be issued for circulation, the president and directors of the principal bank shall distribute to each an amount of notes equal to double the amount of capital assigned to the branches respectively.

SEC. 8. *Be it enacted*, That the bonds of the State for raising three hundred thousand dollars for the improvement of the navigation of the rivers, shall be executed and negotiated by the commissioners at the same time that the bonds for raising the capital of the bank shall be negotiated, and the proceeds shall be deposited in the banks in the three divisions of the State, in equal portions, and the amount so deposited to be drawn in the notes of said banks, to be applied as provided by law.

SEC. 9. *Be it enacted*, That each branch shall render to the principal bank monthly statements of the condition of such branch, including a list of all the notes and bills purchased, together with the endorsers and acceptors on the same, and which shall be filed.

Sec. 10. *Be it enacted*, That no director of the principal bank or branches who is under protest at said bank or any of its branches, shall sit in any board of directors whilst under protest at any of said banks ; and if any such director remains under protest for the space of thirty days, he shall forfeit his directorship. No director shall act as attorney at law for said bank or branches.

Sec. 11. *Be it enacted*, That the bonds of the State, to be issued under the provisions of the act to which this is a supplement, shall be engraved under the direction and superintendence of the Governor and Secretary of State ; and the comptroller of the treasury is hereby required to issue his warrants upon the treasury from time to time, for such amount as may be necessary to defray the expenses of such engraving.

Sec. 12. *Be it enacted*, That the provisions of the law passed at the present session of the General Assembly, authorizing the Governor to subscribe one-half of the stock in works of internal improvement, shall be so construed as to apply to McAdamized roads, and the Lagrange, Somerville and Memphis railroad, when part of the stock has been subscribed by individuals, and the Governor has subscribed the one-third of the stock so taken, but which is not sufficient to construct the said roads ; in such cases the Governor shall, agreeably to the provisions of the act to which this is a supplement, subscribe the one-half of the capital stock of said companies, or a sum equal to the whole stock taken by individuals in said roads.

Sec. 13. *Be it enacted*, That the principal Bank of the State shall be located at Nashville.

JOHN COCKE,
Speaker of the House of Representatives.
TERRY H. CAHAL,
Speaker of the Senate.

PUBLIC ACTS 1839-40, CHAPTER 1, PAGE 1, PASSED JANUARY 25, 1840.

AN ACT to repeal all laws authorizing the Governor of this State to subscribe for stock in any internal improvement companies on behalf the State, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That all laws authorizing the Governor of this State to subscribe for stock on behalf of the State in any company incorporated or to be incorporated for the purpose of constructing any works of internal improvement be and the same are hereby repealed.

SEC. 2. *Be it enacted,* That the president and directors of any internal improvement company in which the Governor has subscribed for stock on behalf of the State, but has not issued any bond or bonds in payment for such stock, or any part thereof, may by deed surrender the charter of such company, which deed shall be filed in the office of the Secretary of State. And in case the Governor shall have issued any bond or bonds of the State in part or whole payment of stock subscribed by him on behalf of the State in any of said internal improvement companies, the president and directors of such company, by first filing in the office of the Secretary of State, to be cancelled, all of such bonds issued to such company, and paying into the Bank of Tennessee, or any of its branches, to the credit of the State, all interest on the same bond or bonds received by such company from the State, may surrender the charter of such company by deed, which deed shall also be filed in the office of the Secretary of State. And the president and directors of any such company in which the Governor has subscribed for stock on behalf of the State, whether the bond or bonds of the State have been issued or not, in whole or part payment of such stock, may by deed release the State from such subscriptions, which deed shall be filed in the office of the Secretary of State: *Provided*, the Governor shall be of opinion the acceptance of such deed of surrender and dissolution of partnership shall be advantageous as well to the State as to said company: *Provided*, that in case any bond or bonds of the State have issued, such bond or bonds shall be first filed in the office of the Secretary of State to be cancelled, and any interest thereon that shall have been paid by the State shall be first paid into the Bank of Tennessee or its branches to the credit of the State.

SEC. 3. *Be it enacted*, That in case any internal improvement company in which the Governor has subscribed for stock, and the road not completed, shall be willing to release the State from its subscription or co-partnership in said road, it may be lawful, and the Governor is authorized and empowered, for and on behalf of the State, to dissolve such co-partnership upon the following conditions, to wit: All the bonds which may have been issued by the State to such company shall be filed in the office of the Secretary of State, and all the interest that may have accumulated thereon and been paid by the State, shall be paid into the Bank of Tennessee, together with all other expenses which the State may have incurred in such partnership; then it shall be lawful for the individual stockholders to prosecute to completion, on their own liability, such road. *Provided*, that no surrender shall be made under this section, unless the Governor, Comptroller and Attorney-General shall be of opinion that the interest of the State will be advanced by such surrender.

Sec. 4. *Be it enacted*, That in all cases where the subscription of stock by the State in any incorporated company shall have been procured by fraud or mistake; or where the incorporated companies have been making a fraudulent or improper use of the subscriptions of stock on the part of the State, or the bonds issued in pursuance thereof, or where the incorporated companies have disposed of the bonds, and have made, or are attempting to make a fraudulent or improper use of proceeds, or have or intend to apply the same to any other purpose than the *bona fide* prosecution of the public work for which the same was issued, or may be claimed to be issued or where the corporation or its agents have not acted, or shall not be acting up to the end and design for which they were created, and are not proceeding in good faith to make and accomplish the works of internal improvement for which they were incorporated, or where, although the company does intend to make and accomplish the work, yet it intends to do so at the expense of the State, and does not intend the private stockholders to pay their due proportion thereof. In all the foregoing cases it shall be lawful for the Attorney General for the State to file his bill on the part of the State against the private stockholders in said company, in which he shall set forth the facts of the case and a prayer for relief, as in other bills of chancery; and if, upon the hearing of the case, it shall appear that the work is a valuable improvement and ought to progress, the Court may direct the same to be done; but if the State has paid more than its proportion of the expense, the private stockholders shall be decreed to refund as much to the State in proportion to the stock subscribed by such as will make the State and all the stockholders equal. And if any of the other foregoing matters shall appear, [the Court shall be authorized to annul and make void the charter, or to decree such relief as the parties may be entitled to if the charter were a private agreement, and according to the modes and principles governing courts of chancery in enforcing or cancelling contracts and giving relief in consequence thereof. Where any bill shall be filed under this act, a service upon the president or any of the directors elected by the private stockholders shall be equivalent to a service on all the stockholders, and the court shall proceed as though the process were served on all. And in like manner, the Chancellor shall be authorized to issue injunctions, appoint receivers, and grant all other orders and process necessary to prevent mischief and carry into effect the object and intent of this act. And in each and every case where any company shall have received or may claim the right of having issued and receiving any amount of State bonds, it shall be the duty of the commissioners appointed under this act to investigate the affairs and accounts of such company according to the provisions of this act, requiring proof on oath, and report the same on oath to the Governor, who shall refer the same to the Attorney General and the Comptroller of the Treasury, for such action thereon as they, together with the Governor, may deem the public good to require.

Sec. 5. *Be it enacted*, That it shall be the duty of the Attorney General for the several circuits or solicitorial districts throughout the State, to make diligent inquiry into the cases provided for in this act, and to give information when necessary to the Attorney General for the State, and to file such bills and to attend to the cases under his superintendence, as may come under the provisions of this act, when the Attorney General for the State cannot attend to the same in person.

SEC. 6. *Be it enacted,* That when it shall appear to the Governor, from information or evidence, that any internal improvement company has in anywise acted fraudulently and contrary to the intent of the provisions of the act of incorporation, or has fail to pay or invest the stock by the stockholders subscribed, it shal not be lawful for him to issue any further bonds to such company, unless such company shall satisfactorily make it appear that they have in all things honestly and *bona fide* complied with the true intent of the several acts incorporating such company.

SEC. 7. *Be it enacted,* That nothing contained in this act shall be construed as to effect the bonds issued for the improvement of the rivers in this State.

SEC. 8. *Be it enacted,* That the president and directors of any internal improvement company in which the State has taken stock, may, with the assent of the Governor, reduce the amount of the capital stock of such company; *Provided,* the company shall have all the rights and be subject to all the restrictions and duties contained in the charter in other respects; *and provided,* that nothing contained herein shall be construed to authorize the company to diminish the extent of the work for which the company was incorporated to make according to the charter.

SEO. 9. *Be it enacted,* That if any internal improvement company heretofore incorporated, in which the State has become a subscriber for a part of the capital stock thereof, shall fail or refuse to surrender its charter, or release the State from its subscription, as hereinbefore provided, or where the charter thereof shall not be cancelled for fraud, by a bill of chancery, as hereinbefore provided, the subscription on the part of the State in such company shall be paid by the issuance of the bonds of the State according to the provisions of the existing laws, subject, nevertheless, to the limitations and restrictions hereinafter contained.

SEC. 10. *Be it enacted*, That before any further bonds of the State shall be issued to any of the said internal improvement companies in which the State has heretofore become a subscriber, it shall be the duty of the Governor upon the application of any of said companies for the further issue of State bonds in payment of the State's subscription to commission three respectable and disinterested persons, to examine and inspect the work actually done and performed on the road or roads (by the actual expenditure of the money paid in by individual stockholders and the State bonds) for the further construction of which, the companies may apply for a further issue of State bonds, and it shall be the duty of said commissioners to report on oath in writing to the Governor, the Comptroller, and Attorney General for the State, the amount of work done thereon by the actual expenditure of the money and State bonds, and whether in their opinion it has been done according to the provisions of the charters respectively; and if it shall appear from said report to the satisfaction of the Governor, Comptroller and Attorney General that work has been done and performed on said roads respectively, in the way and manner aforesaid by any of said companies in conformity with their charters, to the amount of the capital hereinbefore paid in by the individual stockholders, and the amount of bonds heretofore issued by the State for the benefit of said companies respectively; and if any of said companies shall make application to the

Governor for the further issue of State bonds in further payment of the State's subscription in any said roads, before it shall be lawful for him to issue the same, the said commissioners shall certify to the Governor, the Comptroller and the Attorney General that they are satisfied by the oath of the president and treasurer of said company that the additional sum paid in by the individual stockholders, specifying the precise sum that has been *bona fide* paid in by them as is intended to be applied *bona fide* to the construction of the public works or road as the case may be, and they shall be satisfied that no fraud has been practiced by said company, it shall be the duty of the Governor to issue the bonds of the State for the benefit of such company for an amount equal to the additional sum paid in by the individual stockholders, but no bond of the State shall be issued for a less amount than one thousand dollars; and in like manner when the work shall have progressed and work to the amount of the additional amount of the capital stock thus paid in by the individual stockholders and the additional amount of bonds thus issued by the State shall have been done and performed on said road, a like examination of the additional work done thereon shall be made by three commissioners to be in like manner appointed by the Governor, and a like report made to the Governor, Comptroller and Attorney-General, and upon further application of any of said companies to the Governor for a further issue of State bonds in payment of the State's subscription a like certificate shall be required by him from the said commissioners, before issuing the same that they are satisfied by the oath of the president and treasurer of said company, as heretofore provided, that an additional amount of the capital stock of said company, specifying the sum that has been *bona fide* paid in by the individual stockholders, and is intended to be *bona fide* applied to the further construction of said road ; aad upon receiving said report, if the Governor, Comptroller and Attorney-General shall be satisfied that no fraud has been practiced by said company, it shall in like manner be the duty of the Governor to issue the bonds of the State for the benefit of said company for an amount equal to the further additional sum paid in by the individual stockholders ; and the like proceeding shall be had on each subsequent application by any of said companies to the Governor for the further issue of the bonds of the State before the Governor shall be authorized to issue the bonds of the State for the benefit of any of said companies ; *provided*, that the Governor shall not be bound to issue bonds in any case unless the Comptroller of the Treasury and Attorney-General of the State shall concur with him and be satisfied of the propriety and correctness thereof.

SEC. 11. *Be it enacted*, That whenever any internal improvement company in this State in which the State has heretofore become a subscriber under the existing laws shall *bona fide* perform work in the construction of any railroad or turnpike company which has been incorporated to the amount of fifteen *per cent.* or more on the capital stock of said company, and the same shall be certified to the Governor, Comptroller and Attorney-General by three respectable and disinterested persons to be appointed by the Governor to examine the same as provided in the foregoing sections of this act, and shall be approved by them, it shall be deemed and taken as a payment on the part of the company, and the Governor shall thereupon issue the bonds of the State for an equal amount of State's stock in said company.

SEC. 12. *Be it enacted*, That any bonds which have been or which may hereafter be issued to any internal improvement company and deposited by the Governor in the Bank of Tennessee for the use of such company, shall, on demand being made therefor, be delivered by the Bank of Tennessee to such company, or at the option of the bank be retained by paying the amount of such bonds to the company for whose benefit they were issued; *provided*, that the semi-annual interest on all the bonds of the State hereafter to be issued for the benefit of any internal improvement company shall become due and payable on the first day of January and on the first day of July, in each year, and at no other time.

SEC. 13. *Be it further enacted*, That whenever commissioners shall be appointed under the provisions of this act they shall be entitled to receive the sum of two dollars and fifty cents per day for each and every day they shall be engaged in the discharge of the duties for which they may be commissioned.

SEC. 14. *Be it enacted*, That the twentieth section of act entitled "an act to establish a State Bank, to raise a fund for internal improvement, and to aid in the establishment of a system of education" shall not be so construed as to require the Governor of the State to call upon one internal improvement company for the *deficit* interest upon the bonds issued for the benefit of another company; but each company shall be bound for the interest when there shall be a *deficit* upon the bonds issued to the companies severally, provided nothing herein contained shall be so construed as to interfere with the vested rights of any internal improvement company in this State.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,
Speaker of the Senate.

PUBLIC ACTS 1839-40, CHAPTER 139, P. 230, PASSED JANUARY 28, 1840.

AN ACT to provide for the collection of demands due the State or due the Bank of Tennessee, or other demands in which the State has an interest.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That when any demand or right of action shall accrue to the State of Tennessee, or to the Governor of the State, or to the Bank of Tennessee, except bills or notes dicounted by said Bank, or to the person or corporation entitled to the custody or possession of the common school fund, or any other demand or right of action shall accrue in which the State shall have an interest, it shall be the duty of the Governor, Comptroller of the Treasury, or Bank of Tennessee, as the case may be, to give information thereof to the Attorney General of the district in which the person against whom such demand or right of action has accrued, or any of them, may reside, together with all evidence within their possession or knowledge in support of such demand or right of action; and it shall be the duty of the Attorney General to whom such information may be given to commence and prosecute any suit or suits for the recovery of such demand, and no security for costs shall be required in such case; and when such case shall be taken by appeal or writ of error to the Supreme Court it shall be the duty of the Attorney General of the State to attend to the same.

SEC. 2. That it shall be the duty of the Attorney General as aforesaid to prosecute suits in equity as well as at law for the recovery of the demands aforesaid, and also for the prevention of mischief and the preservation of the rights and interest of the State and the common school fund, and the judges shall be authorized to grant writs of *ne exeat*, injunction, attachments, and all other extraordinary process without security being required as in other cases.

SEC. 3. That the cost in all the foregoing cases shall be paid as the Court shall adjudge; and if judgment be given against the State, the same shall be paid by the Bank of Tennessee if the bank is a party; or out of the common school fund if the suit is on account of that fund, to be paid by the officer or corporation having the custody thereof; or out of the Treasury of the State, upon the warrant of the Comptroller, if the Governor or State is a party.

SEC. 4. That this act shall apply to all demands and rights of action which have heretofore accrued as well as those which shall hereafter accrue.

SEC. 5. *Be it enacted*, That all laws and parts of laws which may be construed to authorize the Bank of Tennessee to sue for any part or portion of the moneys belonging to the school fund be and the same are hereby repealed; *Provided*, *always*, that this act shall not be construed to apply to the regular and legitimate business of said bank upon the school monies.

Sec. 6. *Be it enacted*, That the State of Tennessee shall be and is hereby authorized to commence and prosecute suits for all causes of action accrued or accruing to the State in all the courts of the State according to the laws of the land as in other cases, and that the State shall have the power to prosecute suits for any cause of action accrued or accruing to the State from any individual or association of individuals who have assumed the name and powers of a corporation or having acted as a corporate body, the same not being a corporation by the laws of the State.

JONAS E. THOMAS,
Speaker of the House of Representatives.
L. H. COE,
Speaker of the Senate.

Public Acts 1841-2, Ch. 110, P. 114, Passed Feb. 5, 1842.

AN ACT directing the Internal Improvement books, records and papers, to be transferred from the office of the Secretary of State, to the office of the Comptroller of the Treasury, and for other purposes.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That all books, records and papers relating to the several Internal Improvement companies, in which the State is interested, be transferred from the office of Secretary of

State to the office of Comptroller of the Treasury, and that said books, records and papers shall hereafter be, and form a part of the records of the office of the said Comptroller, and transcripts of said books, records and papers, certified by the Comptroller, shall be received as evidence in the courts of law and equity in this State.

Sec. 2. *Be it enacted*, That it shall be the duty of the Comptroller to open in a book, procured for the purpose, an account with each internal improvement company, in which he shall charge the company with the amount ef State Bonds heretofore issued, and such as may be hereafter issued, and credit the same with the amount heretofore paid, and the amount which may hereafter be paid by individual stockholders; and that said Comptroller be further required to prepare a book in which he shall register the bonds of the State heretofore issued, or which may hereafter be issued, showing the amount of bonds issued to each company, together with the number, letter and date of each bond, and that in order to enable the Comptroller to prepare said register, he shall have access to the register kept in the Bank of Tennessee.

Sec. 3. *Be it enacted*, That it shall be the duty of the Comptroller, in regular reports to the General Assembly, to report the amount of State Bonds issued to each company, and that he further show in said reports the amount received in dividends from each company.

Sec. 4. *Be it enacted*, That so much of an act passed on the 25th of January, 1840, as makes the Governor, Comptroller and Attorney General a Board of Internal Improvement, be and the same is hereby repealed, and that in lieu thereof the Comptroller, President of the Bank of Tennessee, and the Secretary of State, shall compose a Board of Internal Improvement, of which the Comptroller shall be chairman, and shall perform all the duties of the former board, and keep regular minutes of all their proceedings.

Sec. 5. *Be it enacted*, That it shall be the duty of the board hereby appointed, in addition to the duties prescribed in the act of 25th of January, 1840, to require each internal improvement company to make a report semi-annually to said board, in which the company shall show the condition and progress making in their work. A failure or refusal on the part of any company or companies, shall operate as a cause of suspension of the further issue of the bonds of the State to such company or companies.

Sec. 6. *Be it enacted*, That whenever said board shall discover fraud in the transactions of any company or companies, in violation or evasion of their charters, with a view to defraud the State, the said board shall forthwith report the facts to the Governor, whose duty it shall be to cause the Attorney General of the State, either by himself or the attorney of the district, to commence such legal proceedings as are required by the act of 25th of January, 1840.

Sec. 7. *Be it enacted*, That said board, one week before the meeting of each session of the General Assembly, shall make a report to the Governor of their proceedings, all such information as they may be enabled to obtain, touching the condition, conduct and progress of each internal improvement company, which report the Governor shall lay before the General Assembly.

SEC. 8. *Be it enacted*, That when the said board of commissioners shall be satisfied that any internal improvement company has complied in good faith with all the requirements of their respective charters—and they are entitled to receive payment of the State—then they shall communicate the same to the Governor, in writing, the amount said company is entitled to, who shall forthwith execute and deliver the amonut of the same in bonds of the Bank of Tennessee, as required by law.

BURCHETT DOUGLASS,
Speaker of the House of Representatives.
SAM. TURNEY,
Speaker of the Senate.

PUBLIC ACTS 1843-4, RESOLUTION NO. 24, PAGE 298, ADOPTED DECEMBER 27, 1843.

A resolution authorizing the Board of Internal Improvement to compromise with the Murfreesboro, Manchester and Winchester Turnpike Company.

Resolved by the General Assembly of the State of Tennessee, That the Board of Internal Improvement be and they are hereby authorized, upon such terms as they shall deem equitable and advantageous to the interests of the State, to compromise and settle with the Murfreesboro, Manchester and Winchester Turnpike Company, all the claims and rights and matters of disagreement which have arisen between said company and the State in regard to said board, and to compromise any suit or suits, or cause for suit or suits, which may have arisen in the officers of the company, and also to agree with said company for the surrender of the charter for any portion of said road, so as to sink the State subscription, and cancel the same for so much of said road for which the charter may be so surrendered; *Provided*, the compromise and settlement so made shall be approved by the Attorney General and Governor of the State.

D. L. BARRINGER,
Speaker of the House of Representatives.
J. M. ANDERSON,
Speaker of the Senate.

PUBLIC ACTS 1843-4, CHAPTER 164, PAGE 191,
PASSED JANUARY 27, 1844.

AN ACT to authorise the President and Directors of the Bank of Tennessee to draw upon the Treasurer of the State in case of a deficiency of means in the bank to meet its current liabilities, and to amend the revenue laws of the State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That if at any time the dividends of the Bank of Tennessee shall be insufficient to meet its liabilities, it shall be the duty of the cashier of said bank, under the directions of the president and directors thereof, to make out and present to the Comptroller of the treasury a statement of the amount of the deficiency, and of the object of the expenditure for which it has accrued; and if the said Comptroller be satisfied that such a deficit actually exists, said Comptroller shall thereupon issue a warrant for the amount of said deficiency, directed to the treasurer, whose duty it shall be to pay the same upon presentment by the cashier of said bank; *Provided*, there be in the treasury money not otherwise appropriated; and *provided, further*, that the Comptroller shall, in no case, draw upon the treasurer when the payment of said draft would reduce the amount in the treasury below the current expenses of the State Government.

SEC. 2. *Be it enacted*, That it shall be the duty of the Comptroller and treasurer, in addition to the matters and things now required to be reported by them to each General Assembly, to report all sums of money that may be paid by the treasurer under the provisions of this act, specifying the date, number and amount of each warrant so issued, and the object for which the same was issued and paid.

PUBLIC ACTS 1843-4, CHAPTER 209, PAGE 239,
PASSED JANUARY 30, 1844.

AN ACT to provide for the collection of the dividends of the State on her stock in internal improvements, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, It shall be the duty of the several internal improvement companies, in which the State is the owner of stock, to make annual settlements with the Comproller of the treasury, showing the net amonnt of profits made each year, and to pay into the treasury such portion thereof as shall belong to the State, and the first settlement under this act shall be made on or before the first day of July, 1844, embracing all the profits made up to the time of such settlement, and for ever afterward annual settlements shall be made as before provided; *Provided*, that the first settlement shall be made with commissioners appointed by the General Assembly to investigate the affairs of the respective internal improvement companies in which the State is a stockholder, and ever thereafter as herein provided.

SEC. 2. *Be it enacted*, That the 20th section of the act of 1837-8, chapter 107, shall be so construed as to make it the duty of the President and Directors of the Bank of Tennessee to notify the Governor when a deficiency exists in the profits of said bank, such as will render it incumbent on the last named officer to serve on the several internal improvement companies of this State the notification directed in said section of said act.

SEC. 3. If the fund arising from the bank dividends, the internal improvement dividends, and the amount received from the several internal improvement companies in pursuance of the call made by the Governor, shall be sufficient to meet the accruing interest on the State Bonds, then it shall be the duty of the comptroller, under the directions of the Governor, to vest all moneys which may be in the treasury, except such as may be made for specific appropriations, and an amount not exceeding five thousand dollars as a contingent fund in the purchase of the bonds of the State; and in effecting such investments, the comptroller and the Governor are hereby authorized to constitute such agent as they may deem necessary in any one of the eastern cities.

SEC. 4. If the fund designated in the preceding section shall be insufficient to meet the accruing interest on the State Bonds, then so much of any moneys in the treasury as may be necessary for that purpose, shall be appropriated to said purpose, and the balance remaining in the treasury, with the exceptions aforesaid, shall be restored as provided in the preceding section.

Sec. 5. If any of said internal improvement companies shall fail or refuse to make the settlement required by the first section of this act, it shall be the duty of the Governor forthwith to appoint one or more commissioners, with power to proceed and make settlements with such delinquent company, taking from such commissioners a bond with sufficient penalty for faithfully performing the duty, and paying over such moneys as may be received, for which service such commissioners shall receive three dollars per day for every day actually employed in traveling and making settlements.

Sec. 6. If any of said companies shall fail or refuse to make settlements with the commissioners, or shall make settlements which shall not be deemed satisfactory by the internal improvement board, suit shall be forthwith instituted by order of said board against such delinquent company, to be prosecuted by the Attorney General of the State, or in case of his inability from any cause to attend to the same, by the district attorney of the district in which the suit may be instituted.

Sec. 7. If any internal improvement company shall fail or refuse to make up the deficit as required by the 20th section, chapter 107, of the act of 1838, in obedience to the call of the Governor, as provided for in this act, that it shall be the duty of the Governor to direct such proceedings to be had and prosecuted by the Attorney General of the State, as in the opinion of that officer may be necessary and proper to be had, in order to secure obedience to said call.

D. L. BARRINGER,
Speaker of the House of Representatives.

J. M. ANDERSON,
Speaker of the Senate.

PUBLIC ACTS 1843–4, CHAPTER 226, PAGE 268,
DATE OF PASSAGE NOT GIVEN.

AN ACT to appoint Commissioners to investigate the affairs of the respective Internal Improvement Companies of this State, in which the State owns stock.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of the Speakers of the two Houses of the present General Assembly to appoint a committee which shall consist of three members of said Assembly, one of whom shall be resident in each of the three grand divisions of the State, and that it shall be the duty of said committee to make a thorough investigation of the condition and affairs of all the internal improvement companies of this State, and to report the result of such investigation to the Board of Internal Improvement, and that said committee shall receive for their services, and whilst actually engaged in the performance of the duties assigned to them, the compensation of three dollars per day.

SEC. 2. *Be it enacted*, That it shall be the duty of the committee, and they shall have the power to inquire and report, 1st. The actual costs of roads in which the State owns stock.

2d. The amount paid in by individual stockholders, and the amount paid in by the State.

3d. The whole amount of revenue collected from each road, and how the same has been appropriated.

4th. What companies have been organized and have drawn the bonds of the State, and the amount drawn by each.

5th. What progress has been made in the construction of said roads.

6th. What amount of bonds, and to what companies issued since the act of January 25, 1840; and further to inquire into the defects, and suggest such amendments to the laws now in force as will hereinafter insure justice to the State, and a proper accountability of the companies.

SEC. 3. *Be it enacted*, That said committee shall have power to summon, qualify and examine witnesses, and shall have free and unrestricted access to all books, papers and correspondence of said companies, that they may deem necessary and proper to develop the true condition of the affairs of said companies.

SEC 4. *Be it enacted*, That the committee shall not be allowed to claim for services for more than one hundred and twenty days, and not so long, unless it shall appear to be absolutely necessary to complete the investigation herein required to be ascertained by the oaths of the members of the committee.

D. L. BARRINGER,
Speaker of the House of Representatives.

J. M. ANDERSON,
Speaker of the Senate.

PUBLIC ACTS 1845–6, PAGE 345, RESOLUTION NO. 15, ADOPTED JANUARY 23, 1846.

WHEREAS, After applying the surplus dividends of the bank and contingent fund, and the uninvested dividends declared upon the stock owned by the State in the several internal improvement companies, there remains a large deficiency in liquidating the interest on the State Bonds issued for internal improvements ; therefore,

Resolved, That the Governor be requested to notify the president and directors of the several internal improvement companies of such deficiency, and of the amount which each of said companies will be required to pay to meet the interest on said bonds, and upon a failure of any of said companies to pay the requisition upon them, that he notify the Attorney General thereof, whose duty it shall be to institute legal proceedings against such delinquent company or companies for such sum under the provisions of the act of 1837, ch. 107, sec. 20 ; the Attorney General, with a view of testing the right of the State to recover said deficiency, shall first select some one of the companies in default and institute suit against that company, and if practicable make arrangements with the balance of said companies to abide by the principles adjudicated in said case ; *Provided*, that nothing in this resolution shal be so construed as to require suit to be brought against one internal improvement company for the deficit of interest upon the bonds issued for the benefit of another company, but only for such deficit upon the bonds issued to the companies severally.

BROOKINS CAMPBELL,
Speaker of House of Representatives.
H. M. WATTERSON,
Speaker of the Senate.

PUBLIC ACTS 1845-6, CHAPTER 182, PAGE 275, PASSED FEBRUARY 2, 1846.

AN ACT to Incorporate the Memphis and Charleston Railroad Company.

SEC. 41. *Be it enacted*, That said railroad shall commence at or near where Union street crosses the LaGrange and Memphis Railroad, in the town of Memphis, the place where the depot of said LaGrange and Memphis Railroad is now situated; thence running in an easterly direction to such point on the southern boundary line of the State of Tennessee, or such point on the Tennessee river in said State as the said Memphis and Charleston Railroad Company, when organized, may determine to be the most favorable route to form a continous railway communication, or railway and water communication, from the city of Memphis to the city of Charleston; *Provided*, that the company hereby incorporated shall not locate their road on the track of the Memphis and LaGrange Railroad without first procuring the consent of the Memphis and LaGrange Railroad Company, on such terms as the companies may agree upon; *And provided*, the said Memphis and Charleston Railroad Company shall first pay or secure to be paid such sum of money for the interest of the State in the track of the Memphis and LaGrange Railroad as may be agreed upon by the board of internal improvement, whereupon the said board shall have power and are hereby authorized to convey such interest to the Memphis and Charleston Railroad Company, which transfer shall be made under the advice of the Attorney General of the State; *Provided*, that nothing herein contained shall be so construed as to fix the point at which said road shall commence or terminate at said city of Memphis; *Provided*, that nothing herein contained shall be so construed as to authorize the company herein incorporated to lay off and construct the road mentioned in this charter, until such company shall have first purchased of the State the interest which she owns in the Memphis and LaGrange Railroad Company; *And provided further*, that said Commissioners, under the sanction of the Attorney General of the State, shall have power to take stock in said company to the amount of the interest of the State, or require the payment to be made in money as they in their discretion may think will best promote the interest of the State.

BROOKINS CAMPBELL,
Speaker of the House of Representatives.
H. M. WATTERSON,
Speaker of the Senate.

ACTS 1849-50, CHAPTER 249, PAGE 479, PASSED JANUARY 25, 1850.

AN ACT to revive and give further time to the McMinnville and Chattanooga Turnpike Company, and for other purposes.

SEC. 3. *Be it enacted*, That upon the application of the President and Directors of the Memphis and Charleston Railroad Company, it shall be the duty of the Governor to appoint three commissioners, who are not stockholders in any railroad company, and own no real estate south of Hatchie river, and reside west of the Tennessee and north of the Hatchie river, to assess the value of the State's interest in the LaGrange and Memphis Railroad Company and report the same to the Governor, who is hereby directed to convey the same to said first-named company, with all rights and lien in favor of the State, in relation thereto, against the private stockholders upon securing the payment of the said sum by bond, due at six months after date, secured by personal security to the satisfaction of the Governor. The said bond to be payable to the State of Tennessee.

LANDON C. HAYNES,
Speaker of the House of Representatives.
JOHN F. HENRY,
Speaker of the Senate.

Acts 1851-2, Chapter 223, Page 333, Passed February 25, 1852.

AN ACT to amend an act to incorporate the Nashville and Middle Franklin Turnpike Company, passed January 25, 1850, and for other purposes.

Sec. 7. *Be it enacted*, That the creditors of the Memphis and LaGrange Railroad Company, shall have the right to satisfy their debts out of any of the property of said company, notwithstanding any lien of the State in preference to such lien.

Sec. 8. *Be it enacted*, That the third section of the act of 29th January, 1850, shall be so construed that the Governor, in making the conveyance as provided in said act, shall only convey the right of way and the interest of the State to the track, depot and grounds of the LaGrange and Memphis Railroad, to the Memphis and Charleston Railroad Company.

Sec. 9. *Be it enacted*, That the interest of the State, in and to the LaGrange and Memphis Railroad track and depots, at and along the main stem of said road, and the right of way, be and the same are hereby relinquished to the Memphis and Charleston Railroad Company upon the terms heretofore specified by law.

PART III.

Acts 1847-8, Chapter 149, Page 272, Passed February 4, 1848.

AN ACT to amend an Act, entitled an Act to authorize Benjamin Parker Hopkins and William Tinker, of the county of Cocke, to open a Turnpike Road, and for other purposes.

Sec. 2. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor of the State of Tennessee is hereby authorized and required to endorse and guarantee, in the name and on behalf of the State of Tennessee, the bonds of the Nashville and Chattanooga Railroad Company, to any amount not exceeding the sum of five hundred thousand dollars, bearing interest at the rate of six per cent. per annum, and payable thirty years after date; provided, always, that said bonds shall not be endorsed until the sum of one million and a half of subscription shall be made; and provided that said subscription shall be adjudged valid and solvent by the Board of Internal Improvement, before said endorsement and guarantee shall be made; and provided, always, that when forty miles of said road shall be completed, and put in operation by the company, bonds to the amount of two hundred and fifty thousand dollars shall be endorsed and guaranteed in the name and on behalf of the State of

Tennessee, and not before; and that when eighty miles shall be completed, bonds to the amount of two hundred and fifty thousand dollars more shall be endorsed and guaranteed in the name and on behalf of the State of Tennessee, and not before; and provided, always, that the Board of Internal Improvement is hereby authorized and required to take as satisfactory indemnity to save the State against the payment of either principal or interest on said bonds before the same are issued, first by taking a lien upon the whole stock of the company, and second, on the road and fixtures as built and put in operation; and to direct such proceedings either in law or equity to be prosecuted by the Attorney General of the State, or any District Attorney General, as the Board may deem necessary and proper for the safety of the State.

SEC. 8. *Be it enacted*, That the Governor of the State of Tennessee is hereby authorized and required to endorse and guarantee the bonds of the said East Tennessee and Georgia Railroad Company to an amount not exceeding three hundred and fifty thousand dollars, bearing interest at the rate of six per cent. per annum, and payable thirty years after date; provided, said bonds shall not be endorsed until the sum of one million three hundred thousand dollars of subscription, including the State subscription, shall be made; and provided, that said subscriptions shall be adjudged valid and solvent by the Board of Internal Improvement, before said endorsement and guarantee in the name and on behalf of the State of Tennessee shall be made; and provided further, that said road shall be first finished from the Western and Atlantic Railroad to Charleston in Tennessee, and have the cars running on it that distance, being about forty miles; and provided, always, that the Board of Internal Improvement is hereby authorized and required to take as satisfactory indemnity to save the State against the principal and interest on said bonds, before the same are issued, first taking a lien upon the whole stock of the company, and second upon the road and fixtures as built and put in operation, and to direct such proceedings either in law or equity to be prosecuted by the Attorney General of the State, or any District Attorney General, as the Board may direct as necessary and proper for the safety of the State.

SEC. 11. *And be it further enacted*, That before the Governor shall endorse and guarantee the bonds of the Nashville and Chattanooga Railroad Company, the President and a majority of the Directors of said company shall make a statement, verified on oath, that the road heretofore required to be finished, is completed, within the true intent and meaning of this act, and that the proceeds of the bonds to be endorsed and guaranteed shall be wholly applied to the extension of said road; and before the Governor shall endorse or guarantee the bonds herein provided to be endorsed and guaranteed for the East Tennessee and Georgia Railroad Company, the President and a majority of the Directors of the said East Tennessee and Georgia Railroad Company, shall make a statement, verified on oath, that the road has been completed from the Southern terminus in Georgia to Charleston in Tennessee, by subscriptions of individuals, companies and corporations, without any further aid from the State, than that the State has subscribed before this act was passed, and that the State is free from any embarrassment on account of building said road from the Southern terminus in Georgia to Charleston in Tennessee; and that the proceeds of said bonds to be endorsed and guaranteed, shall be entirely applied to the extension of said road from Charleston towards Knoxville.

SEC. 12. *Be it enacted*, That the bonds herein provided to be endorsed and guaranteed, shall not be for a less sum than one hundred dollars each; provided that nothing in this act shall be so construed as to authorize the State to issue any bonds to the East Tennessee and Georgia Railroad Company to make up any deficiency by reason of the reduction of the value of her stock already paid in, as provided for in this act.

F. BUCHANAN,
Speaker of the House of Representatives.
J. M. ANDERSON,
Speaker of the Senate.

ACTS 1853-4, CHAPTER 131, PAGE 205, PASSED FEBRUARY 8, 1854.

AN ACT to amend an act passed 11th February, 1852, entitled "An Act to establish a system of Internal Improvement in this State."

SEC. 6. *Be it enacted*, That the Governor shall endorse and guarantee the bonds of the Nashville and Chattanooga Railroad Company to an amount not exceeding six hundred and fifty thousand dollars, and the State shall thereupon, by virtue of this act, be invested with a lien upon the entire road of said company, with all its equipments, fixtures, etc., and shall have the same remedies for enforcing said lien as are given by previous acts of the General Assembly directing an endorsement of the bonds of said company. The provisions of this act shall extend to all railroad companies mentioned in the aforesaid act passed 11th February, 1852, whose charters, routes or names have been, or may hereafter be changed; and if any two or more of said companies shall be consolidated, they or the consolidated company shall still be entitled to the provisions of this act.

PART IV.

ACTS 1849-50, CHAPTER 42, PAGE 130, PASSED JANUARY 30, 1850.

AN ACT to charter Owen and Winstead Turnpike Company, and for other purposes.

SEC. 11. That so much of the act of the 4th of February, 1848, as requires the Governor of the State to endorse and guarantee the bonds of the East Tennessee and Georgia Railroad Company, to the amount of three hundred and fifty thousand dollars, be and the same is hereby repealed, and instead of said endorsement and guaranty, and for the purpose of aiding in the completion of the East Tennessee and Georgia Railroad, it shall be the duty of the Governor of the State and he is hereby required, whenever he is satisfied that said railroad company has so far progressed in the construction of said road as to make it prudent and proper, to procure the iron rails and equipments for completing the same in sections of forty miles or more. Then and in that case he is hereby authorized and required to issue coupon bonds of the State, for an amount sufficient to pay for the iron rails and equipments to be placed on the sections which have been so far progressed with. The bonds hereby authorized to be issued shall mature in not less than thirty nor more than forty years after date; payable in the United States wherever directed, and bearing an interest of six per centum per annum payable semi-annually. And, in like manner, whenever additional sections of not less than twenty miles in extent, shall likewise be so far progressed with as to make it prudent and proper to procure and pay for the iron rails and equipments for completing the same, it shall be the duty of the Governor to issue bonds of the State, for a sufficient amount to finish such additional section, until the whole line of road from Dalton to the Tennessee river has been completed; under the same rules and upon the same conditions as provided for to enable said company to complete the first section. *Provided, however*, that the whole amount of bonds which the Governor of the State is authorized to issue said company shall not exceed the sum of three hundred and fifty thousand dollars, the amount of said endorsement and guaranty as aforesaid, for the completion of said road from Dalton to the Tennessee river.

SEC. 12. *Be it enacted*, That the iron rails to be used on said road shall comply with the following requisitions. If the U rail is used, the same shall not weigh less than eighty tons to the mile. If the T rail is used, the same shall not weigh less than one hundred tons to the mile.

SEC. 13. *Be it enacted*, That all other railroad companies which have been chartered or which may hereafter be chartered, shall have full power and privilege of crossing the said railroad, and may connect with the same upon the terms and conditions set forth in the fortieth section of the Nashville and Chattanooga Railroad charter. And it shall not be lawful for said company to refuse such connection, or exact other terms and conditions than such as are mentioned in the Nashville and Chattanooga Railroad charter.

SEC. 14. *Be it enacted*, That the Governor of the State is hereby authorized and required to appoint a faithful agent, whose duty it shall be to control, so far the bonds of the State, hereby authorized and required to be issued, as to see that the same are exclusively applied to the payment for the railroad iron and equipments, including engines and cars for the railroad company above named, and for no other uses or purposes.

SEC. 15. *Be it enacted*, That the express conditions on which any bonds under this act shall be issued to said company is, that, upon the issuance of said bonds to said company, the said road with all its appurtenances, and the interest of the individual stockholders therein and the tolls, issues and profits of said road from Dalton to the Tennessee river, shall be, and is by force of this act, vested in the State for the security of the State against the payment of the debt authorized by this act, and the interest thereupon accruing, and the State is hereby declared to be vested with the right to have and to hold, upon the issuance of any bonds to said company under this act. The entire road from Dalton to the Tennessee River, and all the appurtenances thereto belonging, and all the tolls, issues and profits of the stock for security of the debt and interest aforesaid, and the Governor of the State is hereby, on behalf of the State, authorized, if he may deem it necessary, to appoint an agent to receive said tolls and profits and issues, and to apply them to the extinction of the interest accruing on the debt authorized by this act. And it is made the right of the State, and the condition on which this aid or loan is extended to said company, that the said company shall be bound at any time to surrender to an agent or receiver, appointed by the Governor, the entire road and appurtenances for the due execution of this act, if in the judgment of the Governor, the interests of the State, and the due application of the tolls and profits of the road shall require that he should appoint such an agent and demand the possession and control of said road, as secured to the State by this act.

Sec. 16. *Be it enacted*, That if any legal proceedings may, in the judgment of the Governor, be necessary to do justice to the State, he may direct the Attorney General of the State to prosecute the same in any court of equity in the State, and service of process on the president, or on any director, shall be equivalent to service on the stockholders.

Sec. 17. *Be it enacted*, That before any bonds shall be issued under this act to said company, the Governor shall be satisfied that no lien, mortgage or encumbrance, either legal or equitable, exists on said road, appurtenances or individual stock of the tolls and profits of said road, and he is hereby required to have full and satisfactory proof of the fact, so that the tolls vested in the State in this act shall be a full and satisfactory security for the loan, to the actual value of the property herein conveyed to the State.

Sec. 18. *Be it enacted*, That the terms and conditions of this act and the acceptance of the terms thereof, shall be ratified and agreed to by the individual stockholders, before the bonds shall be issued.

SEC. 19. *Be it enacted*, That this act is not intended to require, previous to an issuance of bonds, the extinction of the mortgage and debt on the Hiwassee bridge. But the said bridge, as a part of said road, is vested in the State on the issuance of bonds subject to the mortgage executed for the payment of the construction of it.

SEC. 20. *Be it further enacted*, That the agent herein required to be appointed by the Governor to control the bonds authorized by this bill to issue, shall give bond and sufficient security for a faithful discharge of his duties, in double the amount of the bonds placed in his hands.

SEC. 21. *Be it enacted*, That the bonds that this act authorizes to be issued to the East Tennessee and Georgia Railroad Company, shall not be sold for less than the amount specified in each bond.

MS. COPY OF SENATE BILL NO. 186, WITH ENTRIES ON JOURNAL.

A BILL to encourage a well-regulated system of Internal Improvements, and develop the resources of the State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That whenever the East Tennessee and Virginia Railroad Company shall, upon its resources, have completed for successful operation a section of ten miles or more of said railroad, and that fact shall be certified to the Governor of the State by the oath of three reputable and disinterested witnesses, or by such other evidence as he may require, or by the Board of Internal Improvement, the Governor of the State is hereby authorized and required to issue to the board of directors of said company coupon bonds of the State of Tennessee, payable at such place or places within the United States as said company may require, having not more than forty nor less than thirty years to run to maturity, bearing interest at the rate of six per centum per annum, payable semi-annually, to an amount not exceeding seven thousand five hundred dollars per mile for the section thus completed; and in like manner when an additional section of ten miles or more has been completed and ready for operation, it shall be the duty of the Governor of the State to issue the bonds of the State, in like manner, for that and each section of ten miles when completed, on the same terms and conditions and for the same amount per mile, as the first section above specified, until the whole line of railway has been completed from Knoxville to the Virginia line.

SEC. 2. That as defects and irregularities may have happened in the proceedings of the different boards of commissioners, under the act incorporating said company, as well in the time and manner of opening said books, as in other respects; yet, as it has been made to appear from the certificate of the president and secretary of the board of commissioners of said East Tennessee and Virginia Railroad Company, that the whole sum of six hundred and twenty-five thousand dollars, required to be subscribed, has been subscribed, it is hereby declared to be a full compliance with the requirements of the charter, and a confirmation of the acts of said company in the execution thereof. *Provided*, That it shall be the duty of the president and directors of the East Tennessee and Virginia Railroad Company to locate the road on the best route within the limits of the charter of said company: *Provided further*, that the best route shall be decided by the engineer or engineers of the following grounds, viz.: the cheapest, shortest and most practicable route compatible with the interest of the people and the profits of the road; the said engineer or engineers to act under oath.

SEC. 3. And for the purpose of aiding in the completion of the East Tennessee and Georgia Railroad it shall be the duty of the Governor of this State, whenever he is satisfied that said railroad company has so far progressed in the construction of said road as to make it prudent and proper to procure the iron rails and equipments for completing the same, in sections of forty miles or more, then and in that case he is hereby authorized and required to issue coupon bonds of the State for an amount sufficient to pay for the iron rails and equipments to be placed on the sections which have been so far progressed with. The bonds hereby authorized to be issued shall mature in not less than thirty nor more than forty years after date, payable in the United States wherever directed, and bearing an interest of six per centum per annum, payable semiannually; and in like manner, whenever additional sections of not less than twenty miles in extent shall likewise be so far progressed with, as to make it prudent and proper to procure and pay for the iron rails and equipments for completing the same, it shall be the duty of the Governor to issue the bonds of the State for a sufficient amount to finish such additional section; and in like manner for each additional section, until the whole line of the road is completed, under the same rules and upon the same conditions as provided for to enable the company to complete the first section; *provided*, *however*, that the whole amount of the bonds which the Governor of the State is authorized to issue to said company shall not exceed the sum of six hundred thousand dollars, for the completion of the entire road.

SEC. 4. The iron rails which the different companies shall use in the several roads herein and hereafter named, and to which the aid of the State is pledged, shall comply with the following requisitions: If the U rail is used, the same shall not weigh less than eighty tons to the mile; if the T rail is used, the same shall not weigh less than one hundred tons to the mile. The width of all the tracks of the different roads herein named shall conform to the width of the track of the Nashville and Chattanooga Railroad. All other railroad companies which have been chartered, or which may hereafter be chartered, shall have full power and privilege of crossing the tracks of the railways herein named, and may connect with the same upon the terms and conditions set forth in the fortieth section of the Nashville and Chattanooga Railroad charter; and it shall not be lawful for said companies to refuse such connection, or exact other terms and conditions than such as are mentioned in the Nashville and Chattanooga Railroad charter.

SEC. 5. The act of the 4th of February, 1848, authorizing the endorsement of bonds for the East Tennessee and Georgia Railroad Company, is hereby repealed. The requirements of the sixteenth section of this act shall not be construed so as to apply to lateral or branch roads, but the same may be made of lighter material and of iron rails of less weight.

SEC. 6. The advancement hereby authorized by the State, shall not be made to the East Tennessee and Georgia Railroad Company, until the contractors on said road and the president and directors thereof shall enter into a written obligation by which they will cede to the State for the full amount of the bonds advanced to the company, a prior lien over all other creditors or contractors with said company.

Sec. 7. And still farther to secure the State and prevent fraud, and to secure the completion of the said Georgia and East Tennessee Railroad herein named, and that the aid of the State may be exclusively applied to the objects and purposes herein named, and for no other purposes, the Governor of the State is hereby authorized and required to appoint one or more faithful agents, whose duty it shall be to control so far the bonds of the State hereby authorized and required to be issued, as to see that the same is exclusively applied to the payment for the railroad iron and equipments, including engines and cars for the railroad company above named, and for no other uses or purposes whatever.

Sec. 8. That for the purpose of completing a communication by railroad from one end of the State to the other, the formation of a company for the purpose of constructing a railroad from Nashville to Memphis, crossing Tennessee river not more than five miles north or south of the point designated in Lea's survey as reported to the Legislature of 1837-38, passing through Madison county, not south of Jackson, is hereby authorized; which, when formed in pursuance of the provisions hereinafter named, shall be a body corporate by the name and style of the Memphis and Nashville Railroad Company. They shall have perpetual succession and by said corporate name shall sue and be sued, and have all the powers, rights and privileges, and subject to all the restraints, which are contained in an act entitled "An Act to Incorporate the Memphis and Charleston Railroad Company," passed on the 2d day of February, 1846, and the act amendatory of the same, and every part and parcel of the same, as fully as herein set forth at length, except the first, second, third, fourth and forty-first sections thereof; and the same is hereby declared to form and constitute a part of the charter hereby granted to the Memphis and Nashville Railroad Company, except that the words "January, 1851," are hereby substituted for the words "January, 1849," where the same occurs in the fifth and seventh sections of the said act, and the word "thirty" is hereby substituted for the word "eight," where the same occurs in the sixth section of said act.

Sec. 9. The capital stock of said company shall amount to the sum of three million of dollars, with power to open books and increase the same to an amount sufficient to insure the completion of said road. Books for the subscription of the capital stock of said company, in shares of twenty-five dollars each shall be opened on the first Monday in April, 1850, and shall be kept open for the space of six days, between the hours of ten o'clock in the morning and four in the evening on each of said days, at the following places and by the following commissioners, to wit:

. . . . .

Sec. 10. That said commissioners, or a majority of them, at each of the places aforesaid, shall receive subscriptions for stock in said railroad company during the time the said books are directed to be kept open, and on each share so subscribed shall demand and receive the sum of fifty cents; and as soon as the time for receiving subscriptions shall have expired, the said commissioners shall respectively deposit all the money so received by them in some incorporated bank of banks of good standing, to the credit of the Memphis and Nashville Railroad Company, and subject to the order of the president of the board of commissioners hereinafter appointed. and shall also forward a correct list of all subscribers to said stock, with the number of shares each subscriber has taken, to a board of commissioners in Memphis, to be composedof the following named persons, to wit:

. . . . .

who may establish rules to govern their proceedings. and who, or a majority of whom, may choose their president and appoint such other officersand agents as they may think proper, and prescribe their duties, and who, or a majority of whom, shall meet in Memphis on the first Monday in May next, ascertain the whole number of shares taken in said company, and publish the same in some newspaper published in Nashville and Memphis.

Sec. 11. And if the sum of seven hundred thousand dollars shall have been subscribed, the Memphis and Nashville Railroad Company shall be regarded as formed, and thenceforth and from the day of closing the books of subscription as aforesaid, the said subscribers of stock shall form a body politic and corporate in deed and in law, by the name and for the purpose aforesaid, and in all things to be represented by the board of commissioners aforesaid, until the election of a board of directors, as hereinafter prescribed.

Sec. 12. The board of commissioners hereinbefore named, or a majority of them, shall open and hold an election for a president and seven directors, at some central point (Savannah, or Carrollville, or Perryville), of which notice shall be given, on the first Monday in June, 1850; each share shall be entitled to one vote, and each shareholder may vote by proxy, in the same manner as is provided for in the election of president and directors of the Memphis and Charleston Railroad Company. The president and directors thus chosen shall have power to locate the line of the road, choose a competent engineer and such other officers and agents as the necessities of the company may require, as is provided for in the act aforesaid incorporating the Memphis and Charleston Railroad Company.

SEC. 13. Said railroad company shall have power to reopen books for subscription of stock sufficient to insure the completion of said road, in the manner and on the terms hereinbefore required, and they may designate commissioners for that purpose either in the State or out of it. They shall have power to construct lateral branches in such places and directions as the convenience and use of the company may demand. They shall have power to purchase and select their depots, along the line of the road and at Memphis, east of the bayou Gayoso, and they may cross to the west side of the bayou and may locate a line of railway within the limits of the corporation, *provided*, the mayor and aldermen assent thereto, and the cars are drawn within the limits of the town by horses; and instead of extending their western terminus to Memphis, they may connect themselves with the line of the Memphis and Charleston Railroad Company at such points towards the western terminus of the road, and on such terms and conditions as may be agreed upon by said railroad companies. And the Tennessee Central Railroad Company under the same terms and conditions and with the same aid from the State as is granted to the Nashville and Memphis Railroad Company, may construct their road from Fulton, and may connect with the Memphis and Nashville Railroad at Jackson or any other point in Madison county. And the commissioners appointed in the 16th section of the act chartering the Tennessee Central Railroad Company, passed 28th January, 1848, may continue to receive subscriptions to the stock of said company, until in their judgment a sufficient amount shall have been subscribed to justify the commencement of the work, of which fact they shall give due notice, and call a general meeting of the stockholders, for the purpose of electing a board of directors, according to the charter, as herein amended; and said company shall have four years from the first day of January next in which to obtain subscriptions to complete their road from Fulton to Jackson, or any point in Madison county.

SEC. 14. And for the purpose of aiding said work, whenever said Memphis and Nashville Railroad Company or Tennessee Central Railroad Company shall have finished and put into operation a section of twenty miles or more on any part of said road, it shall be the duty of the Governor of this State to issue to said company the bonds of the State, not exceeding seven thousand five hundred dollars per mile, for so much of said road as has beeen finished, on the same terms and conditions as are required for the issuance of bonds to the East Tennessee and Virginia Railroad Company, and so on for each additional section of twenty miles or more of the road, as fast as the same is completed, until the whole line of the road has been finished from Memphis to Nashville; and said company shall have power to commence the work at each end of the road, and at such other points as they may deem prudent and for the interest and early completion of the same.

SEC. 15. To prevent obstruction to the navigation of the Tennessee river at the point of crossing the same, the company is hereby required to elevate the bridge or railway track between two of the piers, which shall be one hundred and fifty feet apart, at least thirty feet above high-water mark, so that boats may safely pass under the same; but the other piers in the river, if more than two shall be required, shall not be of the same elevation, unles it is the interest of the company so to construct them.

SEC. 16. For the purpose of aiding in the construction of the Mobile and Ohio Railroad, through the western portion of this State, whenever said company shall have completed and put in operation, "or have under contract," their line of railway from either terminus of the same to the line of this State, and shall have located their road so far as it runs within this State, and shall have completed and put into operation ten miles or more of their road within this State, it shall be the duty of the Governor to issue bonds of the State to said company for such amount as has been finished and put in operation, so that for the part so finished a greater sum pro rata shall not have been advanced than will exceed the sum of six hundred thousand dollars, for the whole length of the road within this State. And upon the completion of every succeeding section of ten miles, the Governor shall in like manner issue his bonds, for a like sum, until the whole amount of six hundred thousand dollars shall have been issued. The bonds hereby authorized to be issued, are to be issued upon the same terms, conditions and restrictions as the bonds which are to be issued to the East Tennessee and Virginia Railroad.

SEC. 17. And for the purpose of aiding the Memphis and Charleston Railroad Company, whenever said company shall have finished and put into complete operation thirty miles of their road within the limits of the State, it shall be the duty of the Governor to isue to said company two hundred thousand dollars in coupon bonds of the State of Tennessee, having not less than thirty nor more than forty years to run to maturity, payable at such a place or places within the United States as the company may direct, bearing an interest of six per cent per. annum, payable semi-annually.

SEC. 18. That the entire interest of the State in and to the LaGrange and Memphis Rrailroad Company, be, and the same is hereby transferred to the Memphis and Charleston Railroad Company, so that the latter named company be fully substituted to all the rights, liens and interests of the State on said company, and all the powers necessary to enforce the rights and liens here transferred against said company and the stockholders thereof, and the right to use the name of the State, or of any officer thereof, in any judicial proceeding which said Memphis and Charleston Railroad Company may think proper to institute, for asserting the rights and liens here transferred, if by the existing laws such proceeding ought to be instituted in the name of the State or any officer thereof; *provided*, however, that if the Memphis and Charleston Railroad Company fail, within five years from the passage of this act, to complete and put in operation at least thirty miles of this road, then and in that case the grant hereby made shall revert back to theState.

And, *provided further*, that all sums of money which may be recovered from the LaGrange and Memphis Railroad Company, or the stockholders thereof, under the provisions of this act, after deducting the actual expenses of such suits, shall be paid into the treasury of the State.

SEC. 19. That the president and directors of the LaGrange and Memphis Railroad Company are hereby authorized to release, sell and convey to the Memphis and Charleston Railroad Company, all their right of way and property in their said road, and the latter named company is hereby authorized to purchase and hold the same and, on such purchase, is hereby substituted to all the rights which the La Grange and Memphis Railroad Company had in and to said road and right of way, and in cases where minors may have interest in the stock of said company and have no guardians, the County Court of Fayette or Shelby county shall have the power to appoint suitable persons as guardians, who may contract for such minor or minors.

SEC. 20. It shall be the duty of the Governor of the State of Tennessee to issue the bonds of the State in an amount not exceeding two hundred thousand dollars to the Duck River Slackwater Navigation Company, upon the following conditions to-wit: When it shall appear to the satisfaction of said Governor by testimony of three disinterested persons, or such other proof as he may require, that said company with their own means and resources, have constructed one or more locks and dams in the improvement of Duck river, he shall issue the bonds of the State to said company in an amount equal to half the cost of said improvement; and upon the same manner, he shall from time to time issue the bonds of the State to said company, as they may require, until the whole two hundred thousand dollars have been issued. The bonds issued are to be of the same character and description as those issued to the East Tennessee and Virginia Railroad Company.

SEC. 21. And to secure the State of Tennessee from loss or the probability of loss, in consequence of advancing the bonds of the State, to aid in the construction of the several railroads, or public improvements herein named, a lien by this act is hereby declared to exist in behalf of the State, on each of the several roads named, for full amount of the principal and interest of the loans advanced to each of the several railroad companies, upon the entire extent of said several roads and equipments, and upon all the property of said several railroad companies of whatever character or description for the sum advanced to each. And if said several railroad companies, or either of them shall fail to pay the interest on the said several bonds, advanced to each of said companies, or shall fail to pay the principal of the different bonds advanced to each, as shall respectively mature, then and in that event, the Governor of the State or the Attorney General of the State, or the Board of Internal Improvement, shall direct such proceedings either in law or equity against said defaulting companies or either of them, their officers or agents, as they or either of them deem necessary or proper for the safety and indemnity of the State. And for further security, in the event of said companies or either of them, shall fail to pay the interest on the several bonds advanced to each, as the same respectively matures, the State hereby reserves a lien on all rents, profits, tolls and dividends of said several roads, and upon default of paying interest by either of said railroad companies, for and in behalf of the State and for her security, the Governor or Attorney General or Board of Internal Improvement, may take possession of the rents, tolls and dividends accruing to said defaulting railroad company or companies, and pay over the same towards extinguishing the interest unpaid. *Provided*, that the bonds of the State authorized to be issued by this act, shall not be sold for less than par.

Sec 22. That whenever the Governor of the State of Tennssee shall have ascertained by the oath of three creditable and disinterested witnesses, or by the Board of Internal Improvement, that the McMinaville and Manchester Railroad Company, upon its own resources, have completed and put in readiness for operation ten miles of said railroad (or more) then and in that case, he shall be and is hereby directed to cause to be issued to said company the bond or the bonds of the State of Tennessee to the amount of thirty-three thousand dollars, on the same terms and conditions as mentioned in the first section of this bill, and so in like manner for each of the two remaining sections when completed and ready for operations, the like sum of thirty-three thousand dollars on each section of ten (or more) miles so completed.

Sec. 23. *Be it enacted*, That when any railroad company mentioned in this act, shall apply to the Government for the issuance of bonds of the State, in pursuance of the provisions herein contained, the president of such company shall make oath before some judge or justice of the peace in this State, that the portions of work, completed by such company, have been actually paid for, and are not subject to any lien or liability save the lien herein reserved in favor of the State. And he shall make further oath that the bonds so applied for are not to be used in paying any former debt or liability of the company, contracted either directly or indirectly for the completion of such portions of work, but is to be applied to the further construction of the road. And the Governor shall not issue any bonds as directed and authorized in this act until such oath is made. *Provided*, that the provisions of this section shall not apply to the last portion or section of any road—and swearing falsely in these cases shall be perjury.

SEC. 24. *Be it enacted by authority aforesaid*, That each of the respective railroad companies embraced by this act, shall, at the end of the fifth year, after the issuance of the bonds by the State for the use of the companies, set apart and pay into the treasury of the State one per centum per annum upon the amount of the bonds so issued to said companies, and so on for each successive year shall they set apart and pay the same into the treasury until the end of fifteen years; after that time they shall pay one and a half per centum per annum until the bonds shall fall due; and the Comptroller of the Treasury shall give the companies a certificate of each payment; and the Comptroller, with the advice of the Governor of the State, shall vest such sum or sums of money so paid into the treasury in productives stocks, not yielding less than six per centum per annum, or vest the same in the bonds or funded debt of the United States, and shall reinvest annually the same with its accruing proceeds; and this shall be a sinking fund, to be held thus accumulating, to be appropriated to the payment of the bonds so secured by the State on their maturity. *Provided*, the companies shall be credited the amounts so paid, in their account with the State, but bound as is provided by this act to pay any residue upon the bonds the sinking fund shall fall short of paying. And to secure the payment of the one per centum and the one and a half per centum per annum as before prescribed, the lien provided by the twenty-fifth section of this act shall apply to this section. And on default of the companies, or any one of them, paying the per centum per annum, aforesaid, into the treasury, it is hereby provided that the Comptroller of the Treasury shall, and he is hereby empowered to issue a distress warrant in the name of the State of Tennessee against such defaulting company or companies, directed to the sheriff or coroner of any county in this State, commanding such sheriff or coroner to levy and sell so much of the road property, or effects of the company, as will pay the amount called for in such distress warrant. The warrant and money to be returned to the treasury of the State in sixty days from its issuance. *Provided*, the Comptroller of the Treasury shall keep the accounts between the State and the companies, and shall exhibit to each successive session of the Legislature of the State a statement of the amount and condition of the sinking fund. *And provided further*, that the Comptroller with the advice of the Governor shall, should the bonds, or any of them, be offered for sale, purchase them with the money constituting the sinking fund, and such as shall be thus purchased shall be cancelled. *Provided*, that no part of the amount paid into the sinking fund by any one company, shall be used in paying the interest or principal of the bonds issued in favor of any other company.

MONDAY, December 17, 1849.

AFTERNOON SESSION.

The Senate met at 2 o'clock and resumed the unfinished business of the forenoon. * *

. . . .

Mr. Thornburg introduced a bill (No. 186), to encourage a well regulated system of Internal Improvements and develop the resources of the State, which bill was read the first time and passed.

. . . .

A motion was made by Mr. Gardenhire, that the bill (No. 186) to encourage a well regulated system of Internal Improvements and develop the resources of the State, be made the order of the day for Thursday, the 3d day of January next, and the question upon agreeing thereto was put, and decided in the negative.

Ayes	12
Noes	13

Those who voted in affirmative were:

Messrs. Bostick, Fite, Gardenhire, Gillespie, Hamilton, Harris, Laws, McDaniel, Northcut, Shaw, Whitfield and Wilkes.

Those who voted in the negative, were:

Messrs. Brasher, Britton, Fisher, Hill, Kimble, Kyle, Pickens, Thornburg, Tipton, Tunnell, Walker, Zollicoffer and Mr. Speaker Henry.

Mr. Whitfield then moved that said bill be made the order of the day for the first day of January next.

The question upon agreeing thereto was put, and decided in the affirmative.

Ayes	13
Noes	12

Those who voted in the affirmative, were.

Messrs. Bostick, Brasher, Fisher, Fite, Gardenhire, Hamilton, Harris, Laws, McDaniel, Northcut, Shaw, Whitfield and Wilkes.

Those who voted in the negative, were:

Messrs. Britton, Gillespie, Hill, Kimble, Kyle, Pickens, Thornburg, Tipton, Tunnel, Walker, Zollicoffer, and Mr. Speaker Henry.

So said bill was made the order of the day for the first day of January next.

. . . .

TUESDAY, December 18, 1849.

The Senate met pursuant to adjournment.

. . . .

On motion of Mr. Brashear, the Senate agreed to reconsider the vote of the Senate taken yesterday, making the bill (No. 186) to encourage a well regulated system of Internal Improvements and develop the resources of the State, the order of the day for the first day of January next.

Whereupon, a motion was made by Mr. Thornburg, that said bill be taken up and referred to the committee on Internal Improvements.

Mr. Whitfield then moved to amend said motion, that said committee be instructed to report upon said bill to the Senate on the 3d day of January, proximo; which motion prevailed, and said bill was referred accordingly.

. . . .

FRIDAY, January 11, 1850.

The Senate met pursuant to adjournment.

. . . .

Mr. Zollicoffer, from the Committee on Internal Improvements, to which had been referred Senate bill No. 186, to encourage a well regulated system of Internal Improvements and develop the resources of the State, reported, that the committee had had the same under consideration, and had instructed him to report the bill to the Senate without amendment, and ask to be discharged from its further consideration; and then Mr. Shaw moved to strike out the 20th, 21st and 22d sections of said bill.

. . . .

AFTERNOON SESSION.

The Senate met at 2 o'clock.

The Senate resumed the unfinished business of the forenoon, being the consideration of Senate's bill No. 186, to encourage a well regulated system of Internal Improvements and develop the resources of the State, and the amendment offered thereto by Mr. Shaw.

Mr. Whitfield then moved to lay the bill upon the table, and be made the special order of the day for Monday next, and the question upon agreeing thereto being taken, was decided in the negative.

Ayes	8
Noes	13

The ayes and noes being demanded, those who voted in the affirmative, were:

Messrs. Fite, Gardenhire, Laws, McDaniel, Shaw, Whitfield and Wilkes.

Those who voted in the negative, were:

Messrs. Bostick, Brashear, Britton, Fisher, Gillespie, Hill, Kimble, Kyle, Pickens, Thornburg, Tipton, Tunnell, Walker and Mr. Speaker Henry.

The question was then taken on striking out the 20th section of said bill, which prevailed, by the following vote:

Ayes	17
Noes	6

The ayes and noes being demanded, those who voted in the affirmative, were:

Messrs. Brashear, Fisher, Fite, Gardenhire, Gillespie, Hamilton, Harris, Hill, Kimble, Kyle, McDaniel, Northcut, Pickens, Shaw, Tipton, Tunnell and Wilkes.

Those who voted in the negative, were:

Messrs. Bostick, Laws, Thornburg, Walker, Zollicoffer, and Mr. Speaker Henry.

The question upon striking out the 21st and 22d sections of said bill was taken and decided in the affirmative.

Ayes	19
Noes	6

The ayes and noes being demanded, those who voted in the affirmative, were:

Messrs. Brashear, Britton, Fisher, Fite, Gardenhire, Gillespie, Hamilton, Harris, Hill, Kimble, Kyle, McDaniel, Northcut, Pickens, Shaw, Tipton, Tunnell, Whitfield and Wilkes.

Those who vote in the negative, were:

Messrs. Bostick, Laws, Thornburgh, Walker, Zollicoffer, and Mr. Speaker Henry.

So said three sections were stricken out.

. . . .

MONDAY, January 14, 1850.

The Senate met pursuant to adjournment.

. . . .

On motion of Mr. Britton, the Senate resumed the consideration of Senate bill No. 186, to encourage a well regulated system of Internal Improvements and develop the resources of the State.

Mr. Hill made a motion to amend said bill by striking out the 16th section of said bill, and by inserting the following amendment in lieu thereof, to-wit:

SEC. 16. For the purpose of aiding in the construction of the Mobile and Ohio Railroad through the western portion of this State, whenever said company shall have completed and put in operation, "or have under contract," their line of railway for either terminus of the same to the line of this State, and shall have located their road, so far as it runs within this State, and shall have completed and put into operation ten miles or more of their road within this State, it shall be the duty of the Governor to issue bonds of the State to said company for such amount as has been finished and put into operation, so that for the part so finished a greater sum *pro rata* shall not have been advanced, than will exceed the sum of six hundred thousand dollars for the whole length of road within this State, and upon the completion of every succeeding section of ten miles, the Governor shall in like manner issue his bonds for a like sum, until the whole amount of six hundred thousand dollars shall have been issued. The bonds hereby authorized to be issued, are to be issued upon the same terms, conditions and restrictions as the bonds which are to be issued to East Tennessee and Virginia Railroad.

Which amendment was read and adopted.

Mr. Brashear moved further to amend said bill by inserting after the word "Memphis," in the 3d line of the 8th section these words: "crossing Tennessee river not more than five miles north or south of the point designated in Lee's survey, as reported to the Legislature of 1837-8," and the question upon agreeing to said amendment being taken, was decided in the affirmative.

Ayes..............................17
Noes.............................. 6

The ayes and noes being demanded, those who voted in affirmative, were:

Messrs. Brashear, Britton, Fisher, Gardenhire, Harris, Hill, Kimble, Kyle, Northcut, Pickens, Shaw, Thornburgh, Tipton, Tunnell, Walker, Wilkes, and Mr. Speaker Hery.

Those who voted in the negative, were:

Messrs. Fite, Gillespie, Laws, McDaniel, Whitfield, and Zollicoffer.

Mr. Gardenhire offered to amend said bill by adding thereto two additional sections, providing for the appropriation of ten thousand dollars to the improvement of Obed's river; the same amount to the improvement of Wolf river, and fifteen thousand dollars to the improvement of the Caney Fork of Cumberland river.

Which amendment was read and rejected.

Ayes.............................. 7
Noes..............................16

The ayes and noes being demanded, those who voted in the affirmative, were:

Messrs. Fite, Gardenhire, Harris, Laws, McDaniel, Northcut and Shaw.

Those who voted in the negative, were:

Messrs. Brashear, Britton, Fisher, Gillespie, Hill, Kimble, Kyle, Pickens, Thornburgh, Tipton, Tunnell, Walker, Whitfield, Wilkes, Zollicoffer and Mr. Speaker Henry.

Mr. Fite offered the following *proviso* to the end of the last section of said bill, to wit:

"*Provided*, That the bonds of the State authorized to be issued by this act shall not be sold for less than par," which was agreed to.

. . . .

AFTERNOON SESSION.

The Senate met at 2 o'clock.

The Senate resumed the unfinished business of the forenoon, being the consideration of Senate bill No. 185, to encourage a well regulated system of internal improvements and develop the resources of the State.

Mr. Gardenhire entered a motion to reconsider the vote by which was adopted the amendment offered by Mr. Brashear to the eighth section of said bill.

Mr. Kyle offered the following as an amendment to the thirteenth section, after striking out all of said section after the word "and" in the twelfth line, to wit:

"And the Tennessee Central Railroad Company, under the same terms and conditions, and with the aid from the State as is granted to the Nashville and Memphis Railroad Company, may construct their road from Fulton, and may connect with the Memphis and Nashville Railroad, at Jackson, or any other point in Madison county, and the commissioners appointed in the sixteenth section of the act chartering the Tennessee Central Railroad Company, passed 28th January, 1848, may continue to receive subscriptions to the stock of said company, until in their judgment a sufficient amount shall have been subscribed to justify the commencement of the work, of which fact they shall give due notice, and call a general meecing of the stockholders, for the purpose of electing a Board of Directors, according to the charter as herein amended, and said company shall have four years from the 1st day of January next, in which to obtain subscriptions to complete said road." Which was read; then Mr. Fisher moved to amend said amendment by adding thereto the following, to wit: "From Fulton to Jackson or any point in Madison county; which was agreed to.

The said amendment, as amended, was then read and adopted.

On motion of Mr. Brashear, the Senate took up the motion entered by Mr. Gardenhire, to reconsider the vote adopting the amendment offered by himself to the eighth section of said bill; when the Senate refused to reconsider said vote.

Mr. Kyle moved further to amend said bill, by inserting after the word "Company," in the second line of the fourteenth section, the words "or Tennessee Central Railroad Company," which amendment was agreed to.

. . . .

TUESDAY, January 15, 1850.

The Senate met pursuant to adjournment.

. . . .

On motion of Mr. Britton, the Senate agreed to proceed to the consideration of Senate bill (No. 186), to encourage a well regulated system of Internal Improvements and develop the resources of the State.

Mr. Britton moved to amend said bill by adding to the second section thereof the following, to wit:

"*Provided*, That it shall be the duty of the President and Directors of the East Tennessee and Virginia Railroad Company to locate the road on the best route within the limits of the charter of said company; *provided*, *further*, that the best route shall be decided by the Engineer or Engineers, on the following grounds, to wit: The cheapest, shortest and most practicable route compatible with the interest of the people and the profits of the road. The said Engineer or Engineers to act under oath; which was read and adopted; pending the discussion on said bill,

. . . .

WEDNESDAY, January 16, 1850.

The Senate met pursuant to adjournment.

. . . .

On motion of Mr. Britton, the Senate resumed the further consideration of Senate bill No. 186, to encourage a well regulated system of internal improvements, and develop the resources of the State. Mr. Wilkes moved to amend said bill by adding thereto the following, to wit:

SEC.—. *Be it enacted*, That this act (except so much thereof as relates to the East Tennessee and Georgia railroad) shall not go into operation until after the rise of the next regular session of the General Assembly; and it shall be the duty of each officer and person holding elections at the different places of holding the same in this State at the next regular election of members of the General Assembly to interrogate each voter as to whether he votes for or against this bill, and make return of such votes as in other cases, said returns to be forwarded to the Secretary of State in the same manner as the votes cast for Governor and members of Congress; and all votes cast for or against said bill shall be counted at the same time and place by the Legislature as the votes for Governor are counted and compared; and if it shall appear that said bill has been voted for by a majority of the voters voting in said election, then the same shall be in full force and effect from the date of such ascertainment of the result, and its record upon the Journals of the General Assembly; *provided*, said Legislature, then sitting, may amend and alter said act in any particular they may think proper, not increasing the liabilities nor diminishing the securities of the State under the same; which amendment was read.

Then, on motion, the Senate took a recess until 2 o'clock.

AFTERNOON SESSION.

The Senate met at 2 o'clock and resumed the unfinished business of the forenoon, being the consideration of Senate bill No. 186, to encourage a well regulated system of internal improvements, and develop the resources of the State, and an amendment thereto offered by Mr. Wilkes; and after debate thereon, the question upon the adoption of said amendment being put, was determined in the negative.

Ayes	10
Noes	14

The ayes and noes being demanded, those who voted in the affirmative were:

Messrs. Fite, Gardenhire, Gillespie, Hamilton, Harris, Laws, McDaniel, Shaw, Whitfield and Wilkes.

Those who voted in the negative were:

Messrs. Bostick, Britton, Fisher, Hill, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnel, Walker, Zollicoffer, and Mr. Speaker Henry.

So said amendment was rejected. Then, on motion of Mr. Hill, the said bill was amended by adding thereto the following, to wit:

SEC. —. *Be it enacted*, That when any railroad company mentioned in this act shall apply to the Governor for the issuance of bonds of the State in pursuance of the provisions herein contained, the president of such company shall make oath before some judge of justice of the peace in this State that the portions of work completed by such company have been actually paid for, and are not subject to any lien or liability save the lien herein reserved in favor of the State. And he shall further make cath that the bonds so applied for are not to be used in paying any former debt or liability of the company, contracted either directly or indirectly for the completion of such portions of work, but it is to be applied to the further construction of the road, and the Governor shall not issue any bonds as directed and authorized in this act until such oath is made; *Provided*, that the provisions of this section shall not apply to the last portion or section of any road; and swearing falsely in these cases shall be perjury.

Mr. Kemble moved to amend said bill by adding thereto the following:

SEC.—. *Be it enacted*, That the holders of the bonds of the State issued under the authority of this act shall be entitled to have and receive interest thereon at the rate of five per centum per annum, and one per centum per annum upon said bonds, shall be paid into the treasury of the State, and shall become a sinking fund to meet the principal of the bonds so issued when they shall fall due; and it shall be the duty of the Comptroller of the treasury, with the advice of the Governor, to vest said sinking fund in safe and productive stocks, bonds, or funded debt of the United States, bearing an interest of six per centum per annum, who shall make report of what he shall have done in this behalf at each regular session of the General Assembly, the state and condition of the fund, and the bonds shall be issued in such form as to show upon their face the per centum per annum the holder shall receive.

. . . .

TUESDAY, January 22, 1850.

The Senate met pursuant to adjournment.

. . . .

On motion of Mr. Pickens, the Senate resumed the consideration of Senate bill No. 186, to encourage a well reguiated system of Internal Improvements, and develope the resources of the State.

Thereupon Mr. Thornburgh moved that the amendment pending when said bill was laid down, offered by Mr. Kimble, be laid upon the table, which motion was disagreed to.

On leave, Mr. Kimble withdrew his said amendment. Mr. Gardenhire moved further to amend said bill by adding thereto two additional sections, to-wit:

SEC.—. *Be it further enacted*, That for the purpose of affording additional security to the State in the premises before any bonds shall be issued as hereinbefore provided, it shall be made to appear to the authority aforesaid, that stock has been subscribed, by solvent stockholders, sufficient to complete the whole line of the road; and a lien on behalf of the State is hereby declared to exist upon the whole amount of the unpaid stock, as well as upon the section or sections of the road which has been completed, which additional lien shall be superior to all other liens.

SEC.—. *Be it further enacted*, That upon the sale or transfer of the stock of the companies to which bonds of the State may be issued, under the provisions of this act, the original holders of the stock shall be bound to the State for the whole amount of the stock which may remain unpaid at the time of the transfer.

Which amendment was read, and then, on motion of Mr. Pickens, said amendment was laid upon the table.

Ayes................................	15
Noes................................	10

The ayes and noes being demanded, those who voted in the affirmative were:

Messrs. Bostick, Brashear, Britton, Fisher, Hill, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell, Walker, Zollicoffer, and Mr. Speaker Henry.

Those who voted in the negative were:

Messrs. Fite, Gardenhire, Gillespie, Hamilton, Harris, Laws, McDaniel, Shaw, Whitfield and Wilkes.

. . . .

Mr. Kimble offered an amendment to said section to constitute an additional section, which was read, and then Mr. Zollicoffer offered an amendment in lieu of the amendment offered by Mr. Kimble, which was read. Thereupon Mr. Kimble asked and obtained leave to withdraw his said amendment.

Mr. Zollicoffer asked and obtained leave to withdraw his said amendment.

. . . .

Mr. McDaniel offered the following amendments to said bill (No. 186) to encourage a well regulated system of Internal Improvements, etc,, to-wit:

1st. Amend the 8th section by striking out in the 3d line the word "Nashville," and inserting "Winchester;" also in the same line strike out the words "Madison County not south of Jackson," and insert "Fayetteville, Pulaski, and thence the most practicable route to Memphis."

2d. Amend the same section by striking out the word "Nashville" in the 5th line and inserting "Winchester."

3d. Amend the same section by striking out "Nashville" in the 12th line and inserting "Winchester."

4th. Amend the 9th section by striking out "Nashville" in the 6th line and inserting "Winchester."

6th. Amend the 10th section by striking out in the 15th line "Nashville," and inserting "Fayetteville and Pulaski."

6th. Amend the 11th section, strike out "Nashville" in the 2d line and insert "Winchester."

7th. Amend the 14th section by striking out "Nashville" in the first line and inserting "Winchester."

8th. Amend the same section by striking out "Nashville" in the 8th line and inserting "Winchester."

Which several amendments were read, and, on motion of Mr. Brashear, ordered that they do lie upon the table.

Ayes	18
Noes	6

The ayes and noes being demanded, those who voted in the affirmative were:

Messrs. Bostick, Brashear, Britton, Fisher, Fite, Gillespie, Hamilton, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell, Walker, Wilkes, Zollicoffer and Mr. Speaker Henry.

Those who voted in the negative were:

Messrs. Gardenhire, Harris, Laws, McDaniel, Shaw and Whitfield.

Mr. Fisher offered to amend the 13th section of said bill by striking out the words "below the limits of the town," and inserting after the word "provided" the following, "the Mayor and Aldermen assent thereto and," which amendment was agreed to.

Mr. Fite moved, that the Senate do strike out tke 23d section of said bill. And the question upon agreeing thereto being put, was decided in the negative.

Ayes.................................11
Noes.................................14

The ayes and noes being demanded, those who voted in the affirmative were:

Messrs. Brashear, Fite, Gardenhire, Gillespie, Hamilton, Harris, Laws, McDaniel, Shaw, Whitfield and Wilkes.

Those who voted in the negative were:

Messrs. Bostick, Britton, Fisher, Hill, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell, Walker, Zollicoffer, and Mr. Speaker Henry.

The previous question was then moved by Mr. Pickens, but was not demanded by a majority of the member present.

Mr. Zollicoffer offered an amendment, to constitute two additional sections to said bill, which amendment was read.

Mr. Gardenhire moved to amend said amendment, by adding thereto an additional section appropriating $2,500 to the improvement of Obed river, which was read, and after debate thereon, on motion of Mr. Harris, the Senate took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The Senate met at 2 o'clock, and resumed the unfinished business of the forenoon, being the consideration of Senate bill No. 186, to encourage a well-regulated system of internal improvements and develop the resources of the State, and then, on motion of Mr. Kimble, the amendment offered by Mr. Zollicoffer and the amendment offered thereto by Mr. Gardenhire were laid on the table.

Thereupon, Mr. Kimble offered the following, to constitute an additional section, to wit:

SEC. —. *Be it enacted by the authority aforesaid*, That each of the respective railroad companies embraced by this act shall, at the end of the fifth year after the issuance of the bonds by the State, for the use of the companies, set apart and pay into the treasury of the State one per centum per annum upon the amount of the bonds so issued to said companies, and so on for each successive year shall set apart and pay the same into the treasury until the end of fifteen years; after that time they shall pay one and a half per centum per annum until the bonds shall fall due; and the Comptroller of the Treasury shall give the companies a certificate of each payment. And the Comptroller, with the advice of the Governor of the State, shall vest such sum or sums of money so paid into the treasury in productive stocks, not yielding less than six per centum per annum, or vest the same in the bonds or funded debt of the United States, and shall reinvest annually the same with its accruing proceeds; and that this shall be a sinking fund, to be held thus accumulating, to be appropriated to the payment of the bonds so issued by the State on their maturity. *Provided*, the companies shall be credited the amounts so paid in their account with the State, but bound, as is provided by this act, to pay any residue upon the bonds the sinking fund shall fall short of paying; and to secure the payment of the one per centum and the one and a half per centum as before prescribed, the lien provided by the 25th section of this act shall apply to this section. And on default of the companies, or any one of them, paying the per centum per annum aforesaid into the treasury, it is hereby provided that the Comptroller of the Treasury shall and he is hereby empowered to issue a distress warrant in the name of the State of Tennessee against such defaulting company or companies, directed to the sheriff or coroner of any county in this State, commanding such sheriff or coroner to levy and sell so much of the road, property or effects of the company as will pay the amount called for in such distress warrant, the warrant and money to be returned to the treasury of the State in sixty days from its issuance. *Provided*, the Comptroller of the Treasury shall keep the accounts between the State and the companies, and shall exhibit to each successive session of the Legislature of the State a statement of the amount and condition of the sinking fund. *And provided further*, that the Comptroller, with the advice of the Governor, shall, should the bonds or any of them be offered for sale, purchase them with the money constituting the sinking fund, and such as shall be thus purchased shall be canceled.

Which amendment was read.

Mr. Whitfield moved to amend said amendment by striking out the word "fifth," and inserting in lieu thereof the word "third."

Mr. Bostick made a motion that said amendments be laid upon the table, and the question upon agreeing thereto being put, was decided in the negative.

Ayes	7
Noes	18

The ayes and noes being demanded, those who voted in the affirmative were:

Messrs. Bostick, Britton, Fisher, Pickens, Tunnell, Walker, and Mr. Speaker Henry.

Those who voted in the negative were:

Messrs. Brashear, Fite, Gardenhire, Gillespie, Hamilton, Harris, Hill, Kimble, Kyle, Laws, McDaniel, Northcut, Shaw, Thornburgh, Tipton, Whitfield, Wilkes and Zollicoffer.

The motion made by Mr. Whitfield to strike out and insert was disagreed to.

Mr. Hill then moved to amend the amendment by adding thereto the following proviso, to wit:

"*Provided*, That no part of the amount paid into the sinking fund by any one company shall be used in paying the interest or principal of the bonds issued in favor of any other company."

Which was read and agreed to.

The said amendment as amended was then read and adopted.

On motion of Mr. Brashear, the Senate took up the amendment offered by Mr. Zollicoffer to said bill, and the amendment pending thereto offered by Mr. Gardenhire, which were read; then the amendment offered by Mr. Gardenhire was rejected.

Thereupon, Mr. Brashear moved to amend the amendment by an appropriation to build certain bridges and for cleaning out certain creeks and rivers, which was read and rejected.

The question then recurred upon the adoption of the amendment offered by Mr. Zollicoffer, and being put, was decided in the negative.

Ayes	11
Noes	14

The ayes and noes being demanded, those who voted in the affirmative were:

Messrs. Bostick, Fite, Hamilton, Kimble, Kyle, Laws, Northcut, Shaw, Thornburgh, Walker and Zollicoffer.

Those who voted in the negative were:

Messrs. Brashear, Britton, Fisher, Gardenhire, Gillespie, Harris, Hill, McDaniel, Pickens, Tipton, Tunnell, Whitfield, Wilkes, and Mr. Speaker Henry.

The previous question was then moved by Mr. Thornburgh, and was demanded by a majority of the members present.

Ayes	13
Noes	12

Those who voted in the affirmative are:

Messrs. Bostick, Britton, Fisher, Fite, Hamilton, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell and Walker.

Those who voted in the negative are:

Messrs. Brashear, Gardenhire, Gillespie, Harris, Hill, Laws, McDaniel, Shaw, Whitfield, Wilkes, Zollicoffer, and Mr. Speaker Henry.

The main question was then put, "Shall the bill pass?" and decided in the affirmative.

Ayes	14
Noes	11

Those who voted in the affirmative are:

Messrs. Brashear, Britton, Fisher, Hill, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell, Walker, Zollicoffer, and Mr Speaker Henry.

Those who voted in the negative were:

Messrs. Bostick, Fite, Gardenhire, Gillespie, Hamilton, Harris, Laws, McDaniel, Shaw, Whitfield and Wilkes.

So said bill passed the second time.

. . . .

WEDNESDAY, January 30, 1850.

The Senate met pursuant to adjournment.

. . . .

Mr. Thornburgh made a motion to take up Senate bill No. 186, to encourage a well-regulated system of internal improvements, &c., which motion failed.

. . . .

On motion of Mr. Fisher, the Senate took up Senate bills upon their third reading.

Senate bill No. 186, to encourage a well regulated system of internal improvements, &c., was then taken up.

Mr. Hill moved that said bill be laid upon the table, which motion prevailed.

Ayes	13
Noes	11

Those who voted in the affirmative were Messrs. Brashear, Fite, Gillespie, Hamilton, Harris, Hill, Kyle, Laws, McDaniel, Shaw, Tunnell, Wilkes and Zollicoffer.

Those voting in the negative were Messrs. Bostick, Britton, Fisher, Kimble, Northcut, Pickens, Thornburgh, Tipton, Walker, Whitfield and Mr. Speaker Henry.

. . . .

FRIDAY, February 1, 1850.

. . . .

AFTERNOON SESSION.

The Senate met at 2 o'clock.

. . . .

Mr. Fisher moved that the Senate do take up Senate Bill (No. 186) to encourage a well regulated system of internal improvements and develop the resources of the State.

And the question upon agreeing thereto was put, and decided in the affirmative.

Ayes	17
Noes	6

The ayes and noes being demanded—

Those who voted in the affirmative were Messrs. Bostick, Britton, Fisher, Fite, Hamilton, Harris, Kimble, Laws, Northcut, Thornburgh, Tipton, Tunnell, Walker, Whitefield, Wilkes, Zollicoffer and Mr. Speaker Henry.

Those who voted in the negative were Messrs. Brashear, Gardenhire, Gillespie, Hill, Kyle and Shaw.

So said bill was taken up and read.

Mr. Thornburgh offered an amendment in lieu after the enacting clause.

Mr. Kyle offered an amendment to said amendment, constituting an additional section, which was adopted.

Mr. Harris offered an amendment to Mr. Thronburgh's amendment, constituting three additional sections, to revive the Mississippi Railroad Company and for other purposes, which was rejected.

Mr. Brashear offered an amendment to Mr. Thornburgh's amendment, which was, on motion of Mr. Whitfield, laid on the table.

Mr. Kimble then offered an amendment to Mr. Thornburgh's amendment, constituting an additional section, which was adopted.

Mr. Kimble offered another amendment to the same, constituting an additional section, which was also adopted.

Mr. Brashear moved that bill No. 186, with all the amendments thereto, be made the special order of the day for Thursday next, 7th inst., which motion failed.

Ayes	8
Noes	16

The ayes and noes being demanded—

Those who voted in the affirmative were Messrs. Brashear, Gardenhire, Harris, Hill, Kyle, Laws, McDaniel and Shaw.

Those who voted in the negative were Messrs. Bostick, Britton, Fisher, Fite, Gillespie, Hamilton, Kimble, Northcut, Thronburgh, Tipton, Tunnell, Walker, Whitfield, Wilkes, Zollicoffer, and Mr. Speaker Henry.

So the Senate refused to make said bill the special order of the day as aforesaid.

Mr. Brashear made a motion that the bill under consideration and amendments be indefinitely postponed, which motion failed.

Ayes	10
Noes	14

The ayes and noes being demanded—

Those who voted in the affirmtive were:

Messrs. Brashear, Fite, Gardenhire, Gillespie, Hamilton, Harris, Hill, Laws, McDaniel and Shaw.

Those who voted in the negative were:

Messrs. Bostick, Britton, Fisher, Kimble, Kyle, Northcut, Thornburgh, Tipton, Tunnell, Walker, Whitfield, Wilkes, Zollicoffer and Mr. Speaker Henry.

So the Senate refused to indefinitely postpone said bill.

Mr. Brashear moved to lay said bill and amendments on the table, which motion the Senate disagreed to.

Ayes	6
Noes	18

The ayes and noes being demanded,

Those who voted in the affirmative were:

Messrs. Brashear, Gardenhire, Harris, Laws, McDaniel and Shaw.

Those who voted in the negative were:

Messrs. Bostick, Britton, Fisher, Fite, Gillespie, Hamilton, Hill, Kimble, Kyle, Northcut, Thornburgh, Tipton, Tunnell, Walker, Whitfield, Wilkes, Zollicoffer and Mr. Speaker Henry.

So the Senate refused to lay said bill and amendments on the table.

Mr. Brashear called for the previous question, in which the Senate refused to sustain him. The question then being put on the adoption of Mr. Thornburgh's amendment, as amended, in lieu of Senate Bill No. 186, after the enacting clause.

Said amendment was adopted.

Mr. Gardenhire made a motion to lay said bill, as amended, on the table until Thursday next, 7th inst., which motion failed

. . . .

TUESDAY, February 5th, 1850.

Senate met pursuant to adjournment.

. . . .

Senate then took up bill No. 186 to encourage a well-regulated system of internal improvements, which was read the third time and rejected.

Ayes	8
Noes	17

Those who voted in the affirmative were:

Messrs. Britton, Fisher, Pickens, Thornburgh, Tipton, Tunnell, Walker, and Mr. Speaker Henry.

Those who voted in the negative were:

Messrs. Bostick, Brashear, Fite, Gardenhire, Gillespie, Hamilton, Harris, Hill, Kimble, Kyle, Laws, McDaniel, Northcut, Shaw, Whitfield, Wilkes and Zollicoffer.

Mr. Zollicoffer moved to reconsider the vote just taken. Agreed to.

Ayes	15
Noes	10

Those who voted in the affirmative were:

Messrs. Bostick, Britton, Fisher, Gillespie, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell, Walker, Whitfield, Zollicoffer and Mr. Speaker Henry.

Those who voted in the negative were:

Messrs. Brashear, Fite, Gardenhire, Hamilton, Harris, Hill, Laws, McDaniel, Shaw, and Wilkes.

Mr. Brashear moved to strike out the McMinnville and Manchester roads, which motion was lost.

Ayes	11
Noes	14

Those who voted in the affirmative were:

Messrs. Brashear, Fite, Gardenhire, Gillespie, Hamilton, Harris, Hill, Laws, McDaniel, Shaw and Wilkes.

Those who voted in the negative were,

Messrs. Bostick, Britton, Fisher, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell, Walker, Whitfield, Zollicoffer, and Mr. Speaker Henry.

Mr. Brashear moved the previous question, which motion was lost.

Mr. Zollicoffer offered further the following amendments to said bill:

1st. To strike out the words "Tennessee River, Nashville and Cincinnati Railroad," and the words "Memphis and Charleston Railroad" wherever they appear, and insert in lieu the words, "Memphis and Nashville Railroad."

2d. Amend the first section by striking out the words "to the Memphis and Charleston Railroad Company, five thousand dollars per mile, so far as the Lagrange road is used," and insert in lieu "to the Memphis and Nashville Railroad Company, west of the Tennessee river, two hundred thousand dollars for the fifty miles of the Lagrange grade, to be used by said road."

3d. Strike out the words "Big bend of the Tennessee river," wherever they occur, and insert in lieu "not south of the town of Savannah, on the Tennessee river." Insert in the fifth line of the first section the words "a railroad from Nashville to the Kentucky line," when such road shall have been completed and equipped, and strike out the words "the Nashville and Louisville Railroad Company" wherever they occur, and insert in lieu the words "a railroad from Nashville to the Kentucky line," when said railroad shall have been completed and equipped.

Mr. Gardenhire moved to amend the amendment of Mr. Zollicoffer.

On motion of Mr. Kimble, the amendment proposed by Mr. Gardenhire was laid on the table.

Ayes	15
Noes	10

Those who voted in the affirmative were:

Messrs. Bostick, Britton, Fisher, Hamilton, Hill, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell, Walker, Zollicoffer and Mr. Speaker Henry.

Those who voted in the negative were:

Messrs. Brashear, Fite, Gardenhire, Gillespie, Harris, Laws, McDaniel, Shaw, Whitfield and Wilkes.

The question then recurred upon the first proposition of the amendment offered by Mr. Zollicoffer, which was adopted.

Ayes	13
Noes	12

Those who voted in the affirmative were:

Messrs. Bostick, Brashear, Fite, Gardenhire, Hamilton, Hill, Kimble, Kyle, Pickens, Shaw, Thornburgh, Tunnell and Zollicoffer.

Those who voted in the negative were:

Messrs. Britton, Fisher, Gillespie, Harris, Laws, McDaniel, Northcut, Tipton, Walker, Whitfield, Wilkes, and Mr. Speaker Henry.

The second proposition of Mr. Zollicoffer's amendment was then adopted.

Mr. Gardenhire made a motion to reconsider the vote on the first proposition of Mr. Zollicoffer's amendment, which was rejected.

Mr. Whitfield offered an amendment to Mr. Zollicoffer's third proposition, which was rejected.

The third proposition of Mr. Zollicoffer's amendment was then adopted.

Ayes	14
Noes	11

Those who voted in the affirmative were.

Messrs. Bostick, Britton, Fite, Gillespie, Hamilton, Hill, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell and Zollicoffer.

Those who voted in the negative were:

Messrs. Brashear, Fisher, Gardenhire, Harris, Laws, McDaniel, Shaw, Walker, Whitfield, Wilkes and Mr. Speaker Henry.

The fourth proposition of Mr. Zollicoffer's amendment was then adopted.

Mr. Thornburgh offered the following amendment to said bill:

To the Manchester and McMinnville Railroad Company, bonds to the amount of seventy-five thousand dollars, which was adopted.

Ayes	19
Noes	5

Those who voted in the affirmative were:

Messrs. Bostick, Brashear, Britton, Fisher, Fite, Gillespie, Hamilton, Hill, Kimble, Kyle, Northcut, Pickens, Shaw, Thornburgh, Tipton, Tunnell, Walker, Zollicoffer, and Mr. Speaker Henry.

Those who voted in the negative were:

Messrs. Gardenhire, Harris, Laws, Whitfield and Wilkes.

Mr. Bostick moved the previous question upon the passage of the bill, when it was rejected.

Ayes	12
Noes	13

Those who voted in the affirmative were:

Messrs. Bostick, Britton, Kimble, Kyle, Northcut, Pickens, Thornburgh, Tipton, Tunnell, Walker, Zollicoffer and Mr. Speaker Henry.

Those who voted in the negative were:

Messrs. Brashear, Fisher, Fite, Gardenhire, Gillespie, Hamilton, Harris, Hill, Laws, McDaniel, Shaw, Whitfield and Wilkes.

I, N. G. Gibbs, Secretary of the State of Tennessee, do certify that the foregoing is a copy of Senate Bill No. 186, as originally introduced in the

Senate of the 28th General Assembly of Tennessee, Session of 1849-50, the original of which is now of record in my office; and also the action of the Senate of the 28th General Assembly of Tennessee on Senate Bill No. 186, taken from the Senate Journal of the Legislature for 1849-50, the original of which is now of record in my office.

In Witness Whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the Great Seal of the State [SEAL.] of Tennessee, at the Department of the City of Nashville, this 4th day of August, A. D., 1879.

CHAS. N. GIBBS,
Secretary of State.

EXTRACT FROM MESSAGE OF GOV. N. S. BROWN, OCT. 5, 1849, HOUSE JOURNAL, 1849-50, PAGES 45-48.

The subject of internal improvement is one which is exciting more interest at present than any, perhaps, which will enter into your deliberations. And it is gratifying to witness the spirit which now pervades the different sections of the State with regard to it. The Nashville and Chattanooga railroad, and the East Tennessee and Georgia railroad, are in a state of vigorous progress, and furnish assurances of their completion at no distant day. Much interest is also felt in Upper Tennessee, in favor of a road from Knoxville to the Virginia line, chartered at your last session. These enterprises are all rendered more important by the policy of the State of Virginia, which promises the construction of a route from the Tennessee line to Lynchburg, thus presenting the prospect of a line of railroad, almost unbroken, from Nashville to the Eastern Atlantic. While, by the enlightened policy and liberal enterprise of the people and State of Georgia, a continuous line is opening up to us to the Southern Atlantic. The vast advantages presented by these works appeal to your enlightened policy for all the aid in your power to bestow to insure their completion. Although the State debt is now considerable, yet it is not such, in my opinion, considering the amount of our means, as to deter us from still further appropriations of the public credit in aid of specific objects ; I say in aid of specific objects, for I hope never again to see the indiscriminate policy of the act of 1837–8 resorted to by the State. Such a policy, if persevered in, would bankrupt any State in the world. The tendency was to construct any and every sort of road, without reference to its importance or value. The Upper East Tennessee route, viewed both in its local bearing upon the interests of that section of the State, and as a part of the great chain connecting us with the Eastern Atlantic, becomes an enterprise of the highest value. Indeed, it is indispensable, and I have no hesitation in recommending it as deserving a liberal patronage at the hands of the State. How much may be needed, remains to be seen ; and how much should be granted, you will determine. It is not to be expected that private enterprise alone can build the road, it is a work of too much magnitude. The advantages of this branch of improvement to Est Tennessee are apparent. No man can contemplate her condition and natural resources without being impressed with it. But these works, though directly connected with East and a portion of Middle Tennessee, are important to the whole State. They form the basis of other and similar enterprises already in agitation, and destined at no distant day, I trust, to be carried out. Looking at the spirit of the day upon such subjects, and the necessity of multiplying outlets to market, no one can believe for a moment that the Nashville and Chattanooga Railroad will be limited to its present terminus. And to all who indulge an enlarged view of the interest of the whole State, it must be a desirable object to see this road extended from Nashville, or some intermediate point, west of Memphis. The western portion of the State is interested in such a communication to the east and southeast. And so are the other sections of the State in a speedy approach to the Mississippi and southwest. The extension of this route west would complete the chain from one end of the State to the other. And besides the commercial advantages as flow from it, it would bring into constant and close communication the people of all portions of the State—a result greatly to be desired in every view of our social and domestic well being. I trust you may concur with me in the importance and practicability of the route from Nashville to Memphis, and grant a charter with such pledges of aid from the State as you may deem safe. I do not doubt but the greater portion of the stock, at least, would be taken, as the line would pass through many counties of great wealth and resources, and deeply interested by their locality in the attainment of such a road. I need not employ arguments or facts to enforce the incalculable benefits of such a line of railroad to the people of Tennessee. Remote from the ocean and lakes, and limited, to a great extent excluded, from water communication, this State, with all its vast resources, has been kept in the rear of improvements which now mark the age. Our growth in numbers and wealth, though considerable, has been slow compared to our capabilities. This is a question which addresses the interest of every farmer and mechanic in the land, more especially, they being producers, and directly concerned in the enjoyment of a speedy and certain market. The interest of all others compared to theirs is but secondary. But there is another inducement which appeals alike to all. The construction of such a road throughout the length of the State would conduce to the growth of manufactures in all their variety. Besides its influence in enticing the capital of our own people into that department of industry, it would not fail to bring into our midst the capital and enterprise of other States. Our natural resources, agricultural, mineral, and manufacturing, are well known and appreciated. Development ought to be the order of the day, at least in the politics of Tennessee. The property holder and the non-property-holder are equally interested. the former in the increased value of what he has, and the latter in the acquisition of means for the attainment of property.

And if we need the stimulus of example upon this subject, we have it in the policy of our sister State of Georgia. That State has the honor of being foremost among all the southern States in this great branch of enterprise. Though bounded on her southern limits by the Atlantic shore, and enjoying many navigable rivers, yet, not content with these natural advantages, far superior to ours, her public undertakings for railroads already amount to about six millions, while private enterprise has incurred an equal sum on the same account. The results so far have been propitious, and promise the certainty of a new era in the wealth and commerce of that State.

One difficulty always encountered in any specific work of this kind is the opposition of these sections not directly addressed by it. This ought not to be. All portions cannot at once be supplied with these facilities. It must be done in detail, and with a steady and cautious calculation of the public and general as well as local advantage to arise.

But there is still another reason that ought of itself to enforce the extension of this railroad to some point on the Mississippi river—and that is the probable construction of a route to the Pacific—to be built by the General Government out of the public lands. This latter enterprise, if carried on, may connect itself with some point on our Western border—if so, it would form but the continuation of the line above recommended. And why may we not expect the route from Tennessee to be selected? It is recommended by the very enterprises I have been urging—now in progress and in contemplation—and the character and resources of the countries through which they will pass, forming altogether an inducement in favor of this point. And from every observation that has been made, it will be shorter, cheaper in its construction than any other yet indicated, and will not encounter the impassable snows that are found, at least in winter, on the other routes. This great national project, so important to the nation at large, and especially to the Mississippi Valley, will, doubtless, receive your earnest countenance and favor, as it is now receiving much attention and regard by the people of the southern and western States. To have the Atlantic and Pacific connected by one great highway, and Tennessee enjoying an intermediate portion of it within her own territory, is well worthy of a vigorous demonstration on your part at the present session, independent of all other local considerations and interests.

The Mobile and Ohio Railroad will no doubt be pressed upon your consideration, either in its main route across the State, or in one or more diverging branches. It is destined, if completed, to be of immense value to a large and growing portion of our State, and proposes to add to other advantages another southern market for our produce. I respectfully bespeak for this, as well as every other substantial project of improvement that may be presented, your liberal and enlightened regard. In this connection the further improvement of our rivers ought not to be overlooked. Many lasting advantages can be attained by the expenditure of small sums in the removal of specified obstructions that now interfere materially with the navigation of many of our streams. The details of these, their locality, and estimated cost, are best known to yourselves.

But while I am the earnest advocate of every thing that tends to develop the resources of the State, to quicken and advance her growth in agriculture and the mechanic arts, in commerce and manufactures. I am not a friend to rash and improvident expenditures. The faith of the State ought not to be impaired or endangered for any improvements, however desirable. And it is gratifying to our pride of character as a people, that hitherto all our public engagements have been promptly and faithfully met. The credit of the State has hitherto escaped any reflection, either at home or abroad, and this may assure the world that repudiation will never find a lodgment within our limits, as I trust it may never find an advocate.

EXTRACT FROM MESSAGE OF GOV. WM. TROUSDALE, OCT. 22, 1849, HOUSE JOURNAL 1849-50, PAGES 145-147.

I know of no subject which is entitled to more of your deliberations than that of a system of internal improvements. Nature has been liberal in bestowing upon our State the elements of prosperity and happiness, but until these resources are developed by a liberal system of internal improvements, our real advantages can never be fully understood and appreciated. Without facilities for commercial communication, our citizens are not presented with inducements to exert their industry and enterprise in bringing to light the hidden treasures within their reach. Some portions of our State, in which nature has been most lavish in her agricultural and mineral bounties, are so completely cut off from commercial facilities by surrounding mountain ranges, that little or no advancement can be made toward wealth and prosperity. I regard it to be the duty of the State to exert her power in removing the barriers to commercial intercourse, and, so far as she has the means, to enable all of her citizens to have easy access to the best markets for the products of their labor.

Upon looking at the geographical position of our State, the mind is strongly impressed with the necessity of a railroad communication extending from the eastern to the western boundary, as nearly through its center as practicable. Such an improvement would place every portion of the State within an accessible distance of the line of road, and would give a universal impulse to industry and enterprise which could not fail in a short time to make ours one of the richest States in the Union. Such a line of railroad is the more strongly recommended from the fact that, at our eastern boundary it would promise direct communication with the Atlantic through similar works in progress by Virginia, and at the western boundary it would make the communication easy with the projected railroad to the Pacific. Upon the completion of these several projects, in connection with the Georgia improvements which are rapidly approaching our borders, our State would become the great thoroughfare, in its whole length, for the immense travel and transportation which such a line would command. If our State possessed the necessary means of constructing such a work, I should have no hesitation in recommending its adoption as a system worthy of our enterprise. All, however, who are acquainted with the extent of our means and the amount of our present indebtedness, will at once agree that the system indicated is impracticable on account of its great magnitude.

If we cannot accomplish so great an undertaking, it is a matter of duty to inquire whether we can safely embark in any portion of it, and to what extent.

With this view, I invite your attention to four projects already occupying a large share of the public mind. I allude to the proposed railroad from the Virginia line to Knoxville—the Tennessee and Georgia road, already in process of construction. connecting Knoxville with the Georgia road, and the Nashville and Chattanooga, in a rapid progress of construction, connecting Nashville with Chattanooga, and that portion of the Mobile and Ohio railroad proposed to be extended from south to north through the western district of our State. The three first may all be regarded as sections of the general system to which I have already directed your attention. The two proposed roads in East Tennessee are of incalculable importance to that portion of the State. Their completion (particularly if the Virginia road is constructed to our eastern border) would remove the barriers which have heretofore prevented the development of the rich resources of that division of the State. The Tennessee and Georgia road ,presents particularly strong claims upon your consideration, from the fact that the State has already sunk a large amount on this work, and its completion furnishes the only hope of any return for the expenditures already made. Of the importance of the Nashville and Chattanooga road to the interests of the middle portion of the State, I need not speak ; the work will at once commend itself to your consideration as one of the noblest enterprises of the age. The advantages of a road running through the western district, between the Tennessee and Mississippi rivers, will at once occur to all who examine the subject.

I recommend each of these projects as well worthy of all the aid which the State can safely render to them. But in determining whether you will extend the aid of the State to all or either of them, and to what extent, there are certain considerations of great moment which, in my judgment, ought to be kept constantly in view. It is certain that the State can furnish no aid to these or any other projects of internal improvement, except by the use of her credit. In deciding whether her credit can be safely resorted to or not, it will be incumbent on you to look carefully into the present indebtedness of the State, and our means of meeting promptly its principal and interest. If you shall come to the conclusion that our present debt cannot be increased without affecting the credit of our bonds, this ought to be an insuperable barrier to any action on the subject. We are bound by the highest obligations to preserve the credit of the State inviolate and untarnished. If you should be satisfied that our credit would not suffer by an increase of our debt, I cannot too strongly impress upon your minds the importance of providing with certainty for the payment of the accruing interest at the same time that you provide for contracting the additional debt. I feel it my duty also to recommend that before embarking the credit of the State in any work you satisfy yourselves fully that the work, when completed, will yield a fair profit upon the capital invested, and as the best guarantee on this point that the State shall only come forward with her aid after individual capital has been embarked to such an extent as to insure the State against ultimate loss. These principles I regard as fundamental in connection with this subject, and I commend them to your adoption, whether you are about to embark the State in the works I have specifically designated, or any others in which the aid of the State may be invoked.

ACTS OF 1849-50, CHAPTER 115, PAGE 305.
PASSED FEBRUARY 9, 1850.

AN ACT to relieve the Bank of Tennessee, to sell the stock in Union and Planters' Banks, and to purchase the outstanding bonds of the State of Tennessee.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That from and after the passage of this act, the President and Directors of the Bank of Tennessee, shall declare semi-annual dividends of the Bank and Branches, on the first of January and first of July of each year, and as soon thereafter as the net amount of said dividends can be ascertained, shall pay over the same to the Treasurer of the State, taking his receipt therefor, which shall be made to appear in the biennial reports to the General Assembly, of both the Treasurer and the Bank.

SEC. 2. That the Treasurer shall, out of the dividends so declared and paid over, or any moneys in the Treasury not otherwise appropriated, pay annually to Common Schools and Academies, the sums heretofore appropriated by law, upon the warrant of the Comptroller, and that the Bank shall keep and disburse said appropriations as now required by law.

SEC. 3. That the Treasurer shall also pay out of said dividends or any other moneys in the Treasury not otherwise appropriated, the interest upon the outstanding bonds of the State, that may from time to time become due, upon the warrant of the Comptroller. *Provided*, however, that the Bank of Tennessee shall act as agent of the Treasurer in paying the interest that may be due and payable at Philadelphia and New York.

SEC. 4. That the President and Directors of the Bank of Tennessee, with the advice and consent of the Governor, shall be authorized to sell or dispose of the stock in the Union and Planters' Banks, upon such terms as as they may deem expedient for the interest of the State, and apply the proceeds to the purchase of State Bonds at a rate not exceeding their par value, giving preference to the bonds issued for stock in the Union Bank, if the same can be purchased at a reasonable rate—*provided* the bonds purchased or received in exchange of the school-fund stock in said banks, shall have endorsed thereon "School Fund Bonds," the interest on which shall be annually applied to Common School purposes, as now provided for by law.

SEC. 5. That said President and Directors are hereby authorized to use any money that may be in the Treasury, over and above the amount required to pay the current expenses of the State, the appropriations to Schools and Academies, and the interest upon the bonds of the State, in purchasing any of said bonds that may be outstanding, and they are hereby required to make a full statement in their biennial reports, showing the amount of Bank Stock that has been sold, and at what price, the amount of bonds purchased, and at what price, and also the amount drawn from the Treasury and used in the purchase of said bonds.

LANDON C. HAYNES,
Speaker of the House of Representatives.

JOHN F. HENRY,
Speaker of the Senate.

Extract from Message of Governor William Trousdale, of Oct. 9, 1851, on the subject of Internal Improvements. House Journal 1851-2, pp. 43, 44, 45.

The subject of Internal Improvements is more exciting than any other likely to occupy your attention during the session. The people of each division of the State are aroused upon this subject, and have their plans of improvement, some in progress and others in contemplation. You will be asked to extend the aid of the State, to a large amount in building railroads and opening rivers. Beginning at the West, a railroad is in progress, or soon will be, from Memphis to Charleston, South Carolina, a portion of which is located in this State. I am not advised that any aid will be asked for that road from your body. From Memphis, by Jackson to Nashville, a railroad is contemplated to unite with the Nashville and Chattanooga road; this we all know would be a work of vast interest to the people, and should receive every aid the State can give it. The Mobile and Ohio railroad, should it be made, will cross the State from south to north, west of the Tennessee river, and would be of no small importance to the people in that section of the Staee, affording them an additional market for the sale of their produce. The utility of a continuous railroad from the Mississippi river to the Atlantic, traversing an entire length of our State, cannot be denied. In Middle Tennessee, the Nashville and Chattanooga railroad, a most noble enterprise, a portion of which is now in operation, and the East Tennessee and Georgia railroad, now partly in operation, and nearly completed, a most admirable road, constitute an important part of the road above indicated, and guarantee the construction of the whole line of road from the Mississippi to the eastern boundary of the State, there to unite with the road now building from Petersberg, Virginia, to the Tennessee line. The road from Knoxville to the Virginia line has been chartered and a portion of it placed under contract; this road calls loudly for assistance from the State, both on account of its national importance, and the many local advantages which would result from it to the people of that division of the State. This road would develop the vast resources of wealth which have been concealed for ages in the mountains of East Tennessee. This delightful division of our State, abounding in all the native elements of wealth, but hemmed in all sides by ledges of lofty mountains, which seem to forbid its intercourse with other parts of the earth, demands artificial assistance to remove the obstructions which have so long kept back the streams of wealth which would fertilize the country were those barriers removed. The line of road above mentioned would pass diagonally through the State from southwest to northeast, affording railroad communication with the Atlantic, east and south, by the Virginia and Georgia roads. This improvement would secure the travel and transportation for a large scope of country from the Valley of the Mississippi to the Atlantic, and would be a source of great profit to the stockholders in the road, besides the wealth and population it would bring into the State. The completion of this line of road would be an inducement, should the General Government determine to build a railroad to the Pacific, to make its eastern terminus unite with the Tennessee road.

Thus our State would become the highway of nations, and the traffic between Europe on the one hand, and the East Indies and China on the other, would be conducted along this road. Many other railroads are in contemplation, some of which would be highly useful. The road from Nashville to Jefferson City, in the State of Missouri, called the Central Missouri Railroad, would cross the Tennessee river not far from the Kentucky line, and would furnish railroad communication to the people occupying the northern section of Middle Tennessee with the Atlantic. Also the Cincinnati Railroad from Nashville through Frankfort, Kentucky, to Cincinnati, thus uniting with the northeastern railroads and the lakes, and onward to the Atlantic; likewise the Louisville and Nashville Railroad. These roads, or at least one of them, would be of great utility, and may require the aid of the State in their construction. In addition to these, other railroads have been mentioned as likely to pass over some portion of our State. But having already treated this subject at some length, I shall particularize no others. We are all satisfied with the benefits which would result to the State, from a well-organized system of railroad communication. But the great question is, can the State safely extend such aid to individual enterprise, as will accomplish this desirable object? This is a question alone for the determination of your honorable body. Experience has shown that partnerships between the State and individuals, in works of internal improvement, result badly. Perhaps the better plan would be to grant liberal charters to companies composed of individuals, for the construction of railroads. Let them by their money and labor prepare the road for the rails and fixtures, and then call upon the

State for aid. Should it appear from investigation that the improvements thus made, when furnished, would be profitable, let a lien be taken by the State, upon the whole stock of the company in the road as completed, and upon the rails and fixtures, to save the State from loss; then let the State loan her credit in State bonds, payable at a distant day, say fifty years or less, bearing an interest of six per cent., paying semi-annually, at some commercial point in the United States. Should the credit of the State not be impaired by the issue of bonds to an amount beyond which it can safely go, the bonds will sell in the market for a premium, which might be applied in payment of interest. In this way works of internal improvement may be constructed and put in operation, which would defray the expense of building, and enrich the individual stockholders, and the State be subjected to no cost, and but little risk in the aid she affords in the construction. I recommend to your favorable consideration, each of the roads specified above, as meriting all the aid the State can safely give, while at the same time, the interest of the State should be strictly guarded, and all the necessary steps taken to secure her against loss.

Extract from Message of Governor William Campbell, October 28, 1851, on the Subject of Internal Improvements. House Journal 1851-2, pp. 147 to 150.

In such a government, and one which has grown to be of vast extent and diverse interests, the injunction of the Constitution of the State "to encourage knowledge, learning and virtue," and "a well-regulated system of internal improvements"—

as "being essential to the preservation of republican institutions," and "calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens," cannot but be regarded as wise and patriotic. It is by all conceded to be the obvious duty of the Legislature to promote and encourage education. A faithful observance of the constitutional provision making the common school fund a "perpetual fund, the principal of which shall never be diminished by legislative appropriations," may doubtless be expected at your hands. I would, however, invite your careful examination into the best mode of carrying out another portion of the same fundamental law, which requires that "the interest thereof shall be inviolably applied to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof." It is deeply to be regretted that the fund is not larger or more effective. It is much to be desired that some plan could be devised by which its benefits could be so distributed as to secure an education to all who are really unable to procure one. But, coming as you do, fresh from the different counties, and fully enlightened as to the sentiments of your respective constituencies, I submit the question of a modification of the present school system to your decision, merely begging to impress on you the propriety of a free interchange of opinion, and an attentive consideration on the whole subject.

No State has more to promise itself from "a well-regulated system of internal improvement" than Tennessee, geographically placed in a vast interior, far distant from ocean and lakes, and the great marts of commerce, the heavy products of our labor slowly wend their way to distant markets, burdened with great costs, risks, and delays of transportation, while the fabrics of other countries reach us in return, taxed with the profits of a hundred hands through which they must pass before they touch our borders.

We possess in a remarkable degree the elements of wealth; but being cut off from commercial intercourse, they remain comparatively undeveloped. The soil teems with a superabundance of agricultural products; embowled in the earth lie inestimable mineral treasures the water power of the streams, the timber of the forests, the variety of staples, and the excellence of the climate, combine to give us a capacity for population and wealth, rarely to be met with elsewhere. But is worthy of remark that other states less favored appear to have outstripped us. Why is this so? The last census returns show that our increase of population within the last ten years has been twenty-one per cent., whilst the average increase for the United States has been thirty-five per cent. It would seem that where railroads have been built, there has been a rapid development of population and resources. Within the period above referred to, Georgia has increased in population thirty per cent.; New York twenty-seven per cent.; Pennsylvania thirty-one per cent; Ohio forty-one per cent.; Indiana forty-four per cent.; Illinois sixty-eight per cent., and some other states still more largely.

Rivers and railroads beyond our borders turn the currents of travel around and from us, diverting to other fields masses of capital and skilled labor in search of employment. A railroad from Louisville to Nashville, affording a passage in six hours, at a cost of from three to five dollars, would introduce thousands of sturdy and skilled laborers from the teeming thoroughfares of the Northwest, who now, encountering a stage passage of thirty-six hours, at a cost of fifteen dollars, turn aside from what they regard as an impenetrable interior. And so it would be at each end of the great thoroughfare from Central Virginia through East Tennessee to the Mississippi river at Memphis, or one from the seaboard at Charleston and Savannah, through Middle and West Tennessee to the Madrid Bend; or from Mobile or New Orleans through West Tennessee to the Ohio river and the lakes.

Our vast coal fields, which lie undisturbed while our pig iron seeks foundries 'and rolling mills erected upon the coal fields of Pennsylvania and other States, and while our cotton and wool are transported to still more distant manufactories, would then be thrown open to the purpose for which they were designed, and our mountains and valleys would resound with the busy clang of hammers, looms and spindles. A wise division of labor would ensue; consumers of the farmer's produce would take at good prices all his surplus products at his very door. Every portion of the State would be brought into close proximity with good markets, and the value of lands would be greatly enhanced. The results, as shown by other States, which have constructed such roads, and to the details of which I invite your attention, are no less astonishing than cheering to the friends of internal improvements.

The public works indicated are invited by the approaches of the neighboring States of Virginia, South Carolina, Georgia, Alabama, Mississippi, Louisiana and Kentucky, all of whom, it is gratifying to observe, are pointing their great roads toward Tennessee. South Carolina and Georgia, as you are aware, have already penetrated our border; Virginia is pushing her work rapidly to the line; Kentucky, Alabama, Mississippi and Louisiana, are earnestly moving in the same great system of public works. We shall have but a small part to be accomplished in the immense network of railroads of which Tennessee will become the center; but this small part will be sufficient to tax very greatly the energies of our people. It will require many years and large expenditures to accomplish it; but when done it will return the expenditures ten-fold, fully develop our vast resources, and ultimately render Tennessee one of the most prosperous and powerful States in the confederacy.

Individual enterprise, assisted by the credit of the State, has already accomplished much towards it, and show how the remainder may in the main be effected. Without demanding a dollar from the State treasury, or requiring any guarantee without the most ample indemnity, the Nashville and Chattanooga Company have raised abundant means for completing that road, more than forty miles of which are already finished, and the remainder expected to be completed in another year, a total distance of about one hundred and fifty miles. Individual enterprise, assisted by the State, has already completed about forty miles of the East Tennessee and Georgia Road, and the work is rapidly progressing. Individual enterprise has also taken the lead, and thus far without the aid of the State has made a commencement upon the East Tennessee and Virginia Road, another great link in the important chain through the valleys of East Tennessee. About $2,600,000 have been subscribed to the Memphis and Charleston Road. Over $2,000,000 to the road from Louisville to Nashville, and above $150,000 to the road from Nashville to Columbia.

All these works deserve the countenance of the State, and some of them will, to a greater or less extent, no doubt, require in some form a loan of the credit of the State. Individuals should in all such enterprises take the lead. They are entitled, when the works promise to be of public utility, to liberal charters. The State ought not herself to engage in them, but when it is manifest that the works are important to the public interest, promising fair profits on investments, but are not able to accomplish their heavy undertakings, it does seem to be a high duty of the State to loan her credit, at least towards ironing and equipping the roads after they have been prepared for the iron, upon ample indemnity by the individual stockholders against loss, and to any needed extent which will not seriously embarrass the State treasury or cripple her credit.

These principles are regarded as fundamental, and ought never to be lost sight of or departed from. It will be your duty carefully to examine into, and determine upon the ability of the State to grant the aid which may be asked for. I would also suggest to you the great propriety of securing for the State an intelligent and careful supervision of such work as she may feel called upon to give her aid to, at least to the extent of seeing that the condition upon which such aid is to be granted, shall in good faith be complied with.

Extract from Comptroller's Report, Arthur R. Crozier, October, 1851, on the Total Liabilities of the State.

TOTAL LIABILITIES OF THE STATE.

Internal Improvement bonds drawing interest at the rate of 5¼ per cent. per annum	$213,416 66
Internal Improvement bonds drawing 6 per cent. interest	1,815,440 00
Bank of Tennessee bonds drawing 6 per cent. interest	1,000,000 00

Union Bank bonds drawing 5 per cent. interest	375,000 00
Bonds issued for building State Capital,	250,000 00
	$3,651,856 66
The annual interest accruing on the total liabilities of the State is	$195,626 37

PUBLIC ACTS 1851-2, CHAPTER 72, PASSED JANUARY 15TH, 1852.

AN ACT to authorize the Governor of the State to issue bonds of the State of Tennessee to the East Tennessee and Virginia Railroad Company, to aid in the building of bridges.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That for the purpose of aiding the East Tennessee and Virginia Railroad Company, in the construction of bridges on their said railroad, the Governor of the State is hereby authorized and required to issue coupon bonds of the State of Tennessee, to said company, to an amount not exceeding the sum of three hundred thousand dollars, bearing an interest of six per centum per annum, payable semi-annually at such place as the president of said company may designate, which bonds shall be payable in not less than thirty, nor more than forty years after date, and at such place as said president may designate, but said bonds are to be issued as hereinafter provided.

SEC. 2. *Be it enacted*, That whenever it shall be made known to the Governor to his satisfaction by the president and directors of said company, that forty miles of said railroad have been put under contract and the work on the same is progressing to completion, and that said company has sufficient *bona fide* subscription to grade and put the necessary culverts on said section of forty miles ready for the iron rails, which subscription shall be adjudged solvent and valid by the board of internal improvements, or any chief engineer or other persons appointed to examine and report upon works of internal improvements, then it shall be the duty of the Governor to issue to said company coupon bonds of the State of Tennessee, of the description aforesaid, to an amount not exceeding one hundred thousand dollars, to be expended on the bridges necessary to be constructed on the said section of forty miles. And in like manner when a second section of forty miles shall have been put under contract, and the work thereon progressing, and said company has sufficient *bona fide* subscriptions to grade and put on the necessary culverts as aforesaid ready for the iron rails, which subscription shall be adjudged solvent and valid by the board of internal improvements, and all of which facts shall be made known to the Governor in the manner aforesaid to his satisfaction, then it shall be the duty of said Governor to issue to said company bonds of the State of Tennessee, of the description aforesaid, for an amount not exceeding one hundred thousand dollars, to be expended on the bridges necessary to be constructed on said section of forty miles, and a like provision with like restrictions and conditions in all respects is hereby made for an additional section of forty miles of said railroad, the funds to be used in construction of the necessary bridges on said last named section.

SEC. 3. *Be it enacted*, That so soon as the bonds are issued for the first section of forty miles, as provided in the first section of this act, the said bonds shall on issuance thereof, constitute a lien upon all the stock of said company, upon the road-bed, masonry, bridges and other property of said company, and the State shall be invested with such lien on and by virtue of the issuance of said bonds, without a deed from the company for the payment of said bonds and interest accruing thereon; and whenever the bonds are issued for either or both of said sections of forty miles, as specified in the first section of this act, the State of Tennessee shall on and by virtue of the issuance of said bonds be invested with a like lien or mortgage on said sections for the payment of said bonds and the interest thereon, including road-bed, masonry and bridges, on all of the sections provided for in this act, and on all of the stock of said company, without a deed from the company, and said lien or mortgage shall have priority over all other claims against said company, and all liens created by the company after the issuance of the bonds for the first forty miles of said railroad, shall be void as to the liens of the State of Tennessee hereby created for the payment of the bonds issued under the provisions of this act, and the accruing interest thereon, and the said liens of the State shall extend to and embrace the entire railroad, its superstructure and equipments after completed, and so continue until said bonds and interest thereon are paid off and discharged, and without a deed from the company.

SEC. 4. *Be it further enacted*, That the Legislature of this State shall have power to enact any law or laws that may hereafter be deemed necessary to protect the interest or credit of the State against loss or damage on account of the issuance of said bonds, and to provide for the *more speedy* and certain payment by the company of said bonds and interest, not impairing the vested rights of the stockholders, and that for that purpose and the purposes of notice of the existence of this act, the same is hereby declared to be a public law.

SEC. 5. *Be it further enacted*, That before the Governor shall issue any bonds under the provisions of this act, he shall require the engineer of said company to examine the premises where said bridge or bridges are to be built, and ascertain as near as he may be able, the cost of construction of such bridge or bridges with good materials, and in a good and substantial manner, and report the same under oath to the Governor, and it shall not be lawful for said Governor to issue bonds as aforesaid, for a greater amount for the construction of such bridge or bridges than the sum specified in the report of said engineer, and the provisions of this act shall only extend to and include a bridge across the Watauga river, two bridges abross the Holston river and a bridge across Lick creek on the line of said road. And no bonds shall issue under this act, unless upon the written affidavit of the president of said company, and a resolution of a majority of the directors thereof, and that said bonds when issued shall not be used for any other purpose than procuring the means for the construction of said bridge or bridges. and it shall not be lawful for said bonds to be used for any other purpose. *Provided*, the estimates of said engineer shall include the masonry on the line of said road. *Provided*, that the bonds of the State shall not be issued to build the bridges herein provided for, until there is stock subscribed by good and solvent individuals, corporations, companies or counties sufficient to grade the road and put the timbers on the same from Knoxville to the Virginia State Line, which facts shall be certified to the Governor of the State by the written affidavit of the president and directors of said road. *And provid-*

ed further, that the three hundred thousand dollars of bonds, hereinbefore authorized to be issued to said company, may be included with the aggregate amount of stock subscribed by good and solvent individuals, corporations, companies or counties, and if the said sum of three hundred thousand dollars, together with the said subscriptions of stock in said road, shall be sufficient to grade and build the bridges and masonry thereon, and otherwise prepare the said road for the iron rails, which facts shall be made to appear by the report of the chief engineer of said road, on oath to the Governor, then it shall be the duty of the Governor to issue to the said company upon the application of the president and a majority of the directors of said company, the bonds of the State for three hundred thousand dollars, as provided in the first section of this act, and the proceeds of said bonds shall be applied to the construction of the bridges specified in the 5th section of this act, and the masonry on the line of the said road and the surplus, if any, to any other bridges on the line of said road, or other purpose necessary to prepare the said road for the iron rails.

Sec. 6. *Be it enacted*, That it shall be the duty of said company to deposit in the Bank of Tennessee at Nashville, at least fifteen days before the interest becomes due, from time to time, upon said bonds issued as aforesaid, an amount sufficient to pay such interest, including exchange and necessary commission, or satisfactory evidence that said interest has been paid or provided for, and if said company fail to deposit said interest as aforesaid, at the time aforesaid, or furnish the evidence aforesaid, it shall be the duty of the Comptroller to report that fact to the Governor, and the Governor shall immediately appoint some suitable person or persons, at he expense of the company, to take possession and control of said railroad, and all the assets thereof, and manage the same and receive the rents, issues, profits and dividends thereof, whose duty it shall be to give bond and security to the State of Tennessee, in such penalty as the Governor may require for the faithful discharge of his or their duty as receiver or receivers, to receive said rents, issues, profits and dividends, and pay over the same under the direction of the Governor towards the liquidation of such unpaid interest. And if said company fail or refuse to deliver up said road to the person or persons so appointed by the Governor, the said person so appointed shall report that fact to the Governor, who shall forthwith issue his warrant, directed to the sheriffs of the counties through which said road shall run, commanding them to take possession of said road, fixtures, equipments, and receive the same, and manage the entire road until a sufficient sum shall be realized, exclusive of the costs and expenses incident to said proceedings, to pay off and discharge the interest as aforesaid due on said bonds, which being done, the receiver shall surrender said road and fixtures and equipments to said company. The Comptroller shall, from time to time, settle the accounts with the receiver, and the balance shall be deposited in the treasuryof this State. The Comptroller is authorized, and it is made his duty, upon his warrant, to draw from the treasury any sum of money necessary to meet the interest on such bonds, as may not be provided for by the company, as provided for in this act, and the Comptroller shall report thereof to the General Assembly from time to time.

SEC. 7. *Be it enacted,* That if said company shall fail or refuse to pay any of said bonds when they fall due, it shall be the duty of the Governor to notify the Attorney-General of the district in which is situated the place of business of said company of the fact, and thereupon said Attorney-General shall forthwith file a bill against said company in the name of the State of Tennessee, in the Chancery or Circuit Court of the county in which is situated said place of business, setting forth the facts, and thereupon said Court shall make all such orders and decrees in said cause as may be deemed necessary by the Court to receive the payment of said bonds with the interest thereon, and to indemnify the State of Tennessee against any loss on account of the issuance of said bonds, by ordering the said railroad to be placed in the hands of a receiver, ordering the sale of said road, and all the property and assets attached thereto, or belonging to said company, or in such other manner as the Court may deem best for the interest of the State.

SEC. 8. *Be it enacted*, That at the end of five years after the completion of said road, said company shall set apart one per centum per annum upon the amount of bonds issued to the company, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the company shall pay into the treasury of the State after assigning them to the Governor, and for which the Governor shall give said company a receipt, and as between the State and said company the bonds so paid in shall be a credit upon the bonds issued to the company. And said bonds so paid in, and the interest accruing thereon, from time to time, shall be held and used by the State as a sinking fund for the payment of the bonds issued to the company, and should said company re-purchase any of the bonds issued to it under the provisions of this act, thay shall be credited as aforesaid and cancelled. And should said company fail to comply with the provisions of this section, it shall be proceeded against, as provided in the sixth section of this act.

Sec. 9. *Be it enacted*, That in the event any of said road, fixtures or property belonging to said road, shall be sold under the provisions of this act, it shall be the duty of the Governor to appoint an agent for the State, who shall attend said sale and protect the interest of the State, and shall, if necessary to protect said interest, buy in said road or property, in the name of the State, and in case said agent shall purchase said road for the State, the Governor shall appoint a receiver, who shall take possession of said road and property, and use the same as provided for in the 6th section of this act, and said receiver shall settle with the Comptroller semi-annually until the next meeting of the General Assembly.

JORDAN STOKES,
Speaker of the House of Representatives.
M. R. HILL,
Speaker of the Senate.

MANUSCRIPT COPY OF THE ACT OF JANUARY 15, 1852, WITH A HISTORY OF ITS PASSAGE THROUGH THE LEGISLATURE FROM ITS JOURNALS.

A Bill to establish a System of Internal Improvements in this State.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That whenever the East Tennessee and Virginia Railroad Company shall have procured *bona fide* subscriptions for the capital stock in said company to an amount sufficient to grade, bridge and prepare for the iron rails the whole extent of the main trunk line proposed to be constructed by said company, and it shall be shown by said company to the Governor of the State, that said subscriptions are good and solvent, and whenever said company shall have graded, bridged, put down the necessary timbers for the reception of the rails, and fully prepared a section of thirty miles of said road at either *terminus*, in a good and substantial manner, with good materials, for putting on the iron rails and equipments, and the Governor shall be notified of these facts, and that said section, or any part thereof, is not subject to any lien whatever, by the written affidavits of the chief engineer and president of said company, together with the written affidavit of a competent engineer, by him appointed, at the cost of the company, to examine said section, then said Governor shall issue to said company *coupon* bonds of the State of Tennessee to an amount not exceeding eight thousand dollars per mile on said section, and on no other condition, which bonds shall be payable at such place as the president of the company may designate, bearing an interest of *six per centum per annum*, payable semi-annually, and not having more than forty, nor less than thirty years to mature.

SEC. 2. *Be it enacted*, That the bonds before specified shall not be issued by said company for any other purpose than for procuring the iron rails, chairs, spikes and equipments for said section of said road, and the Governor shall not issue the same, unless upon affidavit of said president and a resolution of a majority of the board of directors, for the time being, that said bonds shall not be used for any other purpose than for procuring the said iron rails, chairs, spikes and equipments for said section, and the Governor shall have power to appoint a commission to act, under oath, in conjunction with said president in negotiating said bonds for the purpose aforesaid.

SEC. 3. *Be it enacted*, That so soon as the bonds of the State shall have been issued for the first section of the road as aforesaid, they shall constitute a lien upon said section so prepared as aforesaid, including the road, bed, right of way, grading, bridges and masonry, upon all the stock subscribed for in said company, and upon said iron rails, chairs, spikes and equipments, when purchased and delivered, and the State of Tennessee, upon the issuance of said bonds and by virtue of the same, shall be invested with said lien or mortgage without a deed from the company for payment by said company of said bonds, with the interest thereon, as the same becomes due.

SEC. 4. *Be it enacted*, That when said company shall have prepared as aforesaid, a second section, or any additional number of sections of ten miles each of said road, connecting with a section already completed for the iron rails, chairs, spikes and equipments, as provided by the first section of this act, and the Governor shall be notified of the facts as before provided, he shall, in like manner, issue to said company like bonds of the State of Tennessee to an equal amount with that before issued under the first section of this act, for each and every section of ten miles of said road so prepared as aforesaid, but upon the terms and conditions hereinbefore provided, and upon the issuance of the said bonds, the State of Tennessee shall be invested with a like mortgage or lien without a deed from said company upon said stock, and upon said first and additional section or sections of said road so prepared, upon the rails and equipments put, or to be put upon the same, for the payment of said bonds and the accruing interest thereon. *Provided*, that if the last section of said road shall be less than ten miles, bonds of the State shall be issued for such section, for an amount in proportion to the distance as provided in this act, but upon the same terms and conditions, in all respects, as required in regard to the bonds to be issued for other sections of said road. And when the whole of said road shall be completed, the State of Tennessee shall be invested with a lien, without a deed from the company, upon the entire road, including the stock, right of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the company as incident to, or necessary for its business; and all depots, and depot stations, for the payment of all of said bonds issued to the company as provided in this act, and for the interest accruing on said bonds. And after the Governor shall have issued bonds for the first section of the road, it shall not be lawful for said company to give, create or convey to any person or persons, or body corporate whatever, any lien, incumbrance or mortgage of any kind which shall have priority over, or come in conflict with the lien of the State herein secured; and any such lien, incumbrance or mortgage, shall be null and void as against said lien or mortgage of the State, and the said lien or mortgage of the State shall have priority over all other claims existing or to exist against said company.

Sec. 5. *Be it enacted*, That it shall be the duty of said company to deposit in the Bank of Tennessee, at Nashville, at least fifteen days before the interest becomes due, from time to time, upon said bonds issued as aforesaid, an amount sufficient to pay such interest, including exchange and necessary commissions, or satisfactory evidence that said interest has been paid or provided for, and if said company fail to deposit said interest as aforesaid, at the time aforesaid, or furnish the evidence aforesaid, it shall be the duty of the Comptroller to report that fact to the Governor, and the Governor shall immediately appoint some suitable person or persons, at the expense of the company, to take possession and control of said railroad, and all the assets thereof, and manage the same and receive the rents, issues, profits and dividends thereof, whose duty it shall be to give bond and security to the State of Tennessee, in such penalty as the Governor may require, for the faithful discharge of his or their duty, as receiver or receivers—to receive said rents, issues, profits and dividends, and to pay over the same under the direction of the Governor towards the liquidation of such unpaid interest. And if said company fail or refuse to deliver up said road to the person or persons so appointed by the Governor, the said person so appointed shall report that fact to the Governor, who shall forthwith issue his warrant, directed to the sheriffs of the counties through which said road shall run, commanding them to take possession of said road, fixtures and equipments, and everything pertaining thereto, and place the said receiver in full and complete possession of the same, and said receiver so appointed, shall continue in the possession of said road, fixtures and equipments, and run the same and manage the entire road until a sufficient sum shall be realized, exclusive of the costs and expenses, incident to said proceedings, to pay off and discharge the interest as aforesaid, due on said bonds, which being done, the receiver shall surrender said road and fixtures and equipments to said company. The comptroller shall from time to time settle the accounts with the receiver, and the balances shall be deposited in the treasury of this State. The Comptroller is authorized, and it is made his duty, upon his warrant to draw from the treasury any sum of money necessary to meet the interest on such bonds, as may not be provided for by the company, as provided for in this act, and the Comptroller shall report thereof to the General Assembly from time to time.

SEC. 6. *Be it enacted*, That if said company shall fail or refuse to pay any of said bonds when they fall due, it shall be the duty of the Governor to notify the Attorney General of the district in which is situated the place of business of said company, of the fact, and thereupon said Attorney General shall forthwith file a bill against said company in the name of the State of Tennessee, in the Chancery or Circuit Court of the county in which is situated said place of business, setting forth the facts, and thereupon said court shall make all such orders and decrees in said cause as may be deemed necessary by the Court to receive the payment of said bonds, with the interest thereon, and to indemnify the State of Tennessee against any loss on account of the issuance of said bonds, by ordering the said railroad to be placed in the hands of a receiver, ordering the sale of said road, and all the property and assets attached thereto or belonging to said company, or in such other manner as the Court may deem best for the interest of the State.

SEC. 7. *Be it enacted*, That at the end of five years after the completion of said road, said company shall set apart one per centum per annum upon the amount of bonds issued to the company, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the company shall pay into the Treasury of the State, after assigning them to the Governor, and for which the Governor shall give said company a receipt, and as between the State and said company, the bonds so paid in shall be a credit on the bonds issued to the company. And said bonds so paid in, and the interest accruing thereon, from time to time, shall be held and used by the State as a sinking fund, for the payment of the bonds issued to the company, and should said company re-purchase any of the bonds issued to it under the provisions of this act, they shall be a credit as aforesaid and cancelled. And should said company fail to comply with the provisions of this section, it shall be proceeded against, as provided in the fifth section of this act.

SEC. 8. *Be it enacted*, That the president of the company shall make semi-annually reports under oath, to the Governor, until the completion of said road, setting forth fully the condition of the road and the company, and after its completion, he shall report to the Governor annually, showing the financial condition of the company, giving a statement of the trade and travel upon the road, the receipts and expenditures, net earnings and dividends, and what per cent. is paid on the stock to the stockholders. And said reports shall be consolidated every two years by the president of said company, and said consolidated reports shall be laid before the Governor by the first of September every two years after the completion of the road, and the Governor shall lay said report before the Legislature for its action, at the next meeting thereof after said report is made.

SEC. 9. *Be it enacted*, That it shall not be lawful for any officer of said company to engage in any speculation or dealing, either directly or indirectly, in any real estate on or along the line, at any of the depots or depot stations, or at either terminus of said road, until after the road is completed, and every officer of the company before entering upon the duties of his office, shall take an oath in writ-ting before any judge or justice of the peace in this State, that he will not knowingly violate the provisions of this act, and that he will faithfully perform the duties of his office, and if any such officer of the company, or other persons taking an oath as herein provided, knowingly and wilfully swear falsely, he shall be deemed guilty of perjury and subject to all the pains and penalties thereof, and every affidavit required under this act may be sworn to before any judge or justice of the peace in this State.

Sec. 10. *Be it enacted*, That the provisions of this act shall extend to and embrace the Chattanooga, Harrison, Georgetown and Charleston Railroad Company, the Nashville and Northwestern Railroad Company, the Louisville and Nashville Railroad Company, the Henderson and Nashville Railroad Company, the Southwestern Railroad Company, the Memphis and Charleston Railroad Company, the Nashville and Southern Railroad Company, the Mobile and Ohio Railroad Company, the Nashuille and Memphis Railroad Company, the Nashville and Cincinnati Railroad Company, the East Tennessee and Georgia Railroad Company, the Memphis, Clarksville and Louisville Railroad Company, and the Winchester and Alabama Railroad Company, so far as the main trunk roads to be constructed by said companies lie within the limits of this State, and not otherwise, and said companies shall have all the powers and privileges, and be subject to all the restrictions and liabilities contained in this act. *Provided*, that this act shall not extend to or embrace more of the road proposed to be built by the Memphis, Clarksville and Louisville Railroad Company, than that part which lies between the Kentucky line and the city of Clarkesville. *And provided further*, that this act shall not extend to or embrace the East

Tennessee and Georgia Railroad Company, unless said company shall extend their road so as to form a junction with the East Tennessee and Virginia Railroad at Knoxville, and in the event said Company fail or refuse so to extend their said railroad to make said junction, then all the rights, powers and privileges, with the restrictions and liabilities of this act, shall extend to any company that may be hereafter chartered for the purpose of building a railroad to make said connection.

SEC. 11. *Be it enacted*, That the guage of all of said railroads (unless connecting with roads in other States of a different guage) shall be the same as that of the Nashville and Chatranooga Railroad, and not otherwise—and the iron rails to be put upon said road shall not be less than eighty tons to the mile, if the U rail is used, and not less than one hundred tons to the mile if the T rail is used.

SEC. 12. *Be it enacted*, That the State of Tennessee expressly reserves the right to enact by the Legislature thereof, hereafter, all such laws as may be deemed necessary to protect the interest of the State, and to secure the State against any loss, in consequence of the issuance of bonds, under the provisions of this act, but in such manner as not to impair the vested rights of the stockholders of the companies.

SEC. 13. *Be it enacted*, That it shall be the duty of the Governor from time to time, when there shall be reliable information given to him, that any railroad company shall have fraudulently obtained the issuance of the bonds of the State, or shall have obtained any of said bonds contrary to the provisions of this act, he shall notify the Attorney General of this State, whose duty it shall be, forthwith to institute in the name of the State a suit in the Circuit or Chancery Court of the county of the place of business of the company, setting forth the facts. And when the fact shall satisfactorily appear to the Court that any of said bonds shall have been fraudulently obtained, or obtained contrary to the true intent, meaning and provisions of this act, then, in that case, the court shall order, adjudge and decree, that said road lying in the State, with all the property and assets of said company, or a sufficiency thereof, shall be sold, and the proceeds shall be paid into the Treasury, and it shall be the duty of the Comptroller immediately to vest the same in stocks, creating a sinking fund, as provided for in the 7th section of this act. That said company shall forfeit all rights and privileges under the provisions of this act.

SEC. 14. *Be it enacted*, That in the event any of the roads, fixtures, or property belonging to any of said roads, shall be sold under the provisions of this act, it shall be the duty of the Governor to appoint an agent for the State, who shall attend said sale and protect the interest of the State, and shall, if necessary to protect said interest, buy in said road or property, in the name of the State, and in case said agent shall purchase said road for the State, the Governor shall appoint a Receiver, who shall take possession of said road and property, and use the same as provided for in the 5th section of this act, and said Receiver shall settle with the Comptroller semi-annually until the next meeting of the General Assembly.

SEC. 15. *Be it enacted*, That this act shall be deemed and taken to be a public act as to all purposes of notice. *Provided*, that should any of the companies hereinbefore enumerated, have *bona fide*, and before the passage of this act, purchased or otherwise contracted for, upon their own credit, the necessary iron rails, spikes, equipments, etc., for their road or roads, or any section or sections thereof, the bonds of the State shall be issued to such company or companies as hereinbefore prescribed. *Provided further*, that no company shall receive more than the amount per mile hereinbefore prescribed.

The following endorsements appear on the back of the bill:

No. 219. A bill to establish a system of Internal Improvements in this State.

Passed first reading Dec. 5th 525 copies ordered printed. Special order for 17th inst.

Referred to Committee on Internal Improvements, Dec. 20th.

Passed second reading as amended as amended Jan. 16th.

See bill printed as amended.

The Com. on Int. Improv. present this bill & recommend its passage.

R. HOUSTON, Ch.

I, C. N, Gibbs, Secretary of State of the State of

Tennessee, do certify that the foregoing is a copy of House bill, No. 219, as originally introduced in the House of Representatives of Tennessee, session of 1851–2, the original of which is now of record in my office.

In Testimony whereof, I have hereunto
subscribed my Official Signature,
and, by order of the Governor, af-
[SEAL.] fixed the Great Seal of the State of
Tennessee, at the department in
the city of Nashville, this 4th day
of August, A. D. 1879.

CHAS N. GIBBS,
Secretary of State.

FRIDAY MORNING, Dec. 5, 1851.

The House met pursuant to adjournment.

. . . .

The committee introduced House bill No. 210, "To establish a system of Internal Improvements in this State," which was read the first time and passed, and, on motion, 525 copies ordered to be printed for the use of the House.

. . . .

THURSDAY MORNING, Dec. 11, 1851.

The House met pursuant to adjournment.

. . . .

Mr. Hardeman introduced Resolution No. 82, directory to the Committee on Internal Improvements, to-wit:

Resolved, That the Committee on Internal Improvements be instructed to report, as soon as practicable, for the information of the House, the number of miles of railroad proposed to be assisted by a bill now before the House "to establish a system of internal improvements in the State," specifying the number of miles in length of each road within the State.

The rule of the House being suspended, the resolution was adopted.

. . . .

Saturday Morning, Dec. 20th, 1851.

The House met pursuant to adjournment.

. . . .

On motion of Mr. Houston, House Bill No. 219, "To establish a system of internal improvements," was referred to Committee on Internal Improvements.

. . . .

Friday Morning, Jan. 16th, 1852.

The House met pursuant to adjournment.

. . . .

On House bill No. 219, "To establish a system of internal improvements in this State," the committee recommend the adoption of sundry amendments, and the passage of the bill.

Mr. Martin moved to amend the amendment offered by the committee "to strike out the word 'ten' in the seventh line of the first section and insert 'twenty.'" Mr. Martin moved to insert "forty."

Mr. Campbell, of Washington, called for a division of the question, and the question was divided, and the motion to strike out the word "*ten*" prevailed.

And on the motion to insert "*forty*" Mr. Martin demanded the ayes and noes.

Affirmative voters: Messrs. Anderson, Atkins, Bains, Barry, Bate, Battle, Bently, Brabson, Bugg, Bratton, Campbell, of Williamson, Currin, Davis, Dean, Duggan, Farquharson, Ferguson, Gore, Greer, Hamilton, Hardin, Houston, Kimble, Martin, McDaniel, McDuffie, Meeks, Miller, Morris, Palmer, Polk, Phillips, Ray, Richardson, Senter, Shaw, Sherrill, Stuart, Stokes, of DeKalb, Thompson, Woodward and Mr. Speaker Stokes—42.

Negative votes: Messrs. Arledge, Bowles, Bullen, Campbell, of Washington, Cooke, Fowler, Guild, Hardeman, Hardin, Hendrick, Henry, of Bradley, Henry, of Montgomery, Hubbard, Hurt, Jackson, Kincaid, King, Mabry, McClary, Moody, Mosby, Murphy, Netherland, Parker, Pope, Shied, Simpson, of Humphreys, Simpson, of Fentress, Stephens, Telford and Whitaker—31.

So the motion prevailed, and the amendment was adopted.

Mr. Senter moved a reconsideration of the vote adopting said amendment, which motion prevailed.

Ayes.............................. .43
Noes................................29

The ayes and noes being demanded by Mr. Bentley.

Affirmative voters: Messrs. Anderson, Arledge, Atkins, Bowles, Bugg, Bullen, Campbell, of Washington, Cooke, Duggan, Ferguson, Fowler, Greer, Guild, Hardeman, Havron, Hendrick, Henry of Bradly, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kimble, Kincaid, King, Mabry, McClary, McDuffie, Moody, Mosby, Murphy, Netherland, Parker, Pope, Ray, Senter, Sheid Sherrill, Simpson of Humphreys, Simpson of Fentress, Stephens, Telford, and Whitaker—43.

Negative voters: Messrs. Bains, Bate, Battle, Bentley, Brabson, Bratton, Campbell of Williamson, Currin, Davis, Dean, Farquharson, Gore, Hamilton, Hardin, Martin, McDaniel, Meeks, Miller, Morris, Palmer, Polk, Phillips, Shaw, Stuart, Stokes of DeKalb, Thompson, Wisener, Woodard, and Mr. Speaker Stokes—29.

Mr. Martin then had leave to withdraw his amendment, and offered to fill the blank by inserting the word "*thirty.*"

Which amendment was adopted, and, on motion, the House took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The House resumed the unfinished——————of the morning session. being House bill No. 219, "To establish a system of internal improvements in this State."

On motion of Mr. Wisener the House resolved itself into a committee of the whole.

Mr. Polk in the chair. And after some time spent therein, the committee rose and reported the bill to the House, with sundry amendments, and ask the concurrence of the House therein.

The House concurred in a part of the amendments by the committee of the whole, and non-concurred in a part thereof, and adopted the amendments offered by the committee on internal improvements in lieu of the same.

Mr. Hubbard offered to amend the first section of said bill in the sixth line by striking out the words "*put down*" and insert the word "*delivered.*"

Mr. Atkins moved to lay said amendment on the table, which mtotion prevailed.

Ayes	62
Noes	10

The ayes and noes being demanded by Mr. Atkins.

Affirmative voters:

Messrs. Anderson, Arledge, Atkins, Bains, Barry, Bate, Battle, Bentley, Bowles, Brabson, Bratton, Bullen, Campbell of Washington, Campbell of Williamson Cook, Curran, Davis, Dean, Farquharson, Ferguson, Fowler, Guild, Hamilton, Hardin, Hardeman, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hurt, Jackson, Kimble, Kincaid, King, Mabry, Martin, McClary, McDaniel, McDuffie, Meeks, Miller, Moodie, Mosby, Murphy, Palmer, Polk, Phillips, Pope, Ray, Richardson, Senter, Shaw, Sheid, Sherrill, Simpson of Humphreys, Simpson of Fentress, Stephens, Stuart, Stokes of DeKalb, Thompson, Whitaker, and Mr. Speaker Stokes—62.

Negative voters:

Messrs. Bugg, Duggan, Greer, Hendrick, Hubbard, Netherland, Parker, Telford, Wisener, and Woodland—10.

Mr. Miller offered the following amendment, viz:

"SEC. —. *Be it further enacted*, That in all cases the said companies shall be required to grade said roads the whole length from terminus to terminus before the State shall issue bonds."

Mr. Stephens moved to lay said amendment on the table, which motion prevailed.

Ayes	59
Noes	14

The ayes and noes being demanded by Mr. Bentley.

Affirmative voters:

Messrs. Anderson, Arledge, Atkins, Bains, Bate, Battle, Bowles, Brabson, Bugg, Bullen, Campbell of Washington, Campbell of Williamson, Cooke, Currin, Dean, Duggan, Ferguson, Fowler, Gore, Guild, Hardeman, Havron, Hendrick, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kimble, Kincaid, King, Mabry, McClary, McDuffie, Meeks, Moody, Mosby, Murphy, Netherland, Palmer, Parker, Polk, Pope, Ray, Richardson, Senter, Shied, Sherrill, Simpson of Humphreys, Simpson of Fentress, Stephens, Stuart, Stokes of DeKalb, Telford, Whitaker, Wisener, Woodard and Mr. Speaker Stokes—59.

Negative voters:

Messrs. Barry, Bentley, Bratton, Davis, Farquharson, Greer, Hamilton, Hardin, Martin, McDaniel, Miller, Phillips, Shaw and Thompson—14.

Mr. Hurt offered to amend the first section of the bill by striking out the word "*eight*" at the end of the thirteenth line, and insert "seven," which amendment was rejected.

Mr. Richardson offered the following amendment to the first section, viz:

"*And be it further enacted*, That no bonds shall be issued under the provisions of this act, unless the Governor is fully satisfied that a sufficiency of stock still remains in the hands of the company after having prepared the road for the iron, to lay down the same," which amendment was adopted.

Mr. Farquharson offered to amend the bill by adding the following section, viz:

"SEC. —. *Be it enacted*, That this act shall not take effect, or be of force in any way whatever, until the Governor, by proclamation, shall appoint an election to be holden in every county in this State, at which election the question shall be '*for*' or '*against*' the aid of the State to the several works of internal improvements in the manner prepared by the provisions of this act, and the Governor, and all other public functionaries, shall be governed in their action by the will of the majority expressed in such election."

Mr. Hubbard moved to lay the above amendment on the table, which motion prevailed.

Ayes	48
Noes	26

The ayes and noes being demanded by Mr. Farquharson.

Affirmative voters:

Messrs. Anderson, Atkins, Bate, Battle, Brabson, Bratton, Bullen, Campbell of Washington, Cooke, Currin, Duggan, Ferguson, Fowler, Gore, Guild, Havron, Hendrick, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kimble, Kincaid, King, Mabry, McClary, McDuffie, Mosby, Murphy, Netherland, Palmer, Parker, Polk, Pope, Ray, Richardson, Senter, Sheid, Sherrill, Simpson of Humpreys, Stephens, Stuart, Stokes of DeKalb, Telford, Woodard and Mr. Speaker Stokes—48.

Negative voters:

Messrs. Arledge, Bains, Barry, Bentley, Bowles, Bugg, Campbell of Williamson, Davis, Dean, Farquharson, Greer, Hamilton, Hardeman, Hardin, Martin, McDaniel, Meeks, Miller, Moody, Morris, Phillips, Shaw, Simpson of Fentress, Thompson, Whitaker and Wisener—26.

Mr. Wisener offered to amend the bill by adding the following section, viz:

"Sec. —. *Be it further enacted*, That no bonds issued by the Government under the provisions of this act shall be negotiated by the companies to whom they may be issued respectively for less than their nominal value."

Mr. Pope called for the previous question, and the call was sustained by the House, and the main question—shall the bill pass on its second reading? —was had, and determined in the affirmative.

Ayes	51
Noes	23

Messrs. Anderson, Atkins, Bate, Battle, Bentley, Bowles, Brabson, Bratton, Bullen, Campbell of Washington, Cooke, Currin, Duggan, Ferguson, Fowler, Gore, Guild, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kincaid, King, Mabry, Martin, McClary, McDuffie, Meeks, Miller, Moody, Mosby, Murphy, Netherland, Parker, Polk, Pope, Ray, Senter, Sheid, Sherrill, Simpson of Humphreys, Simpson of Fentress, Stephens, Stuart, Telford, Whitaker, Wisener and Woodard—51.

Negative voters:

Messrs. Arledge, Bains, Barry, Bugg, Campbell of Williamson, Davis, Dean, Farquharson, Greer, Hamilton, Hardeman, Hardin, Hendrick, Kimble, McDaniel, Morris, Palmer, Phillips, Richardson, Shaw, Stokes of DeKalb, Thompson and Mr. Speaker Stokes—23.

So the bill as amended passed on its second reading, and, on motion of Mr. Currin, was ordered to be engrossed for a third reading, and 150 copies ordered to be printed for the use of the House.

TUESDAY MORNING, January 20, 1852.

The House met pursuant to adjournment.

. . . .

AFTERNOON SESSION.

On motion, House bill No. 219, to establish a system of internal improvements in this State, was referred to the Committee on Internal Improvements.

. . . .

THURSDAY MORNING, January 22, 1852.

The House met pursuant to adjournment.

. . . .

Mr. Houston, from the Committee on Internal Improvements, reported on House bill No. 219, to establish a system of internal improvements in this State.

The committee recommend the adoption of sundry amendments and the passage of the bill. On motion, the report and the bill was placed in the regular order of business as per calendar.

. . . .

THURSDAY MORNING, January 29, 1852.

The House met pursuant to adjournment.

. . . .

Bill No. 219, to establish a system of internal improvements in this State, and the amendments offered by the committee were severally adopted.

Mr. Wisener offered further to amend said bill by adding the following section, viz:

"SEC. —. *Be it enacted,* That no bonds authorized to be issued by the Governor under the provisions of this act, or any other act of this Legislature, for works of internal improvement, shall be negotiated by any company, or the agent or agents of any company, for whose benefit they may issue for less than their nominal value."

Mr. Shield moved to lay said amendment on the table, which motion prevailed.

Ayes	40
Noes	31

The ayes and noes being demanded by Mr. Wisener.

Affirmative voters:

Messrs. Atkins, Bate, Battle, Brabson, Bullen, Campbell of Washington, Currin, Duggan, Fowler, Gore, Greer, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kimble, Kincaid, King, Mabry, McClary, Moody, Mosby, Murphy, Netherland, Palmer, Polk, Pope, Ray, Senter, Sheid, Sherrill, Simpson of Fentress, Stephens, Stuart, Telford, Winchester and Woodard—40.

Negative voters:

Messrs. Anderson, Arledge, Bains, Barry, Bentley, Bowles, Bugg, Bratton, Campbell of Williamson, Cooke, Davis, Dean, Farquharson, Hamilton, Hardeman, Hardin, Hendrick, McDaniel, McDuffie, Meeks, Miller, Morris, Parker, Phillips, Richardson, Simpson of Humphreys, Stokes of DeKalb, Thompson, Whitaker, Wisener and Mr. Speaker Stokes—31.

Mr. Bentley offered to amend said bill by adding the following section, viz.:

Sec.—*Be it further enacted*, That the aid contemplated by the first section of this act shall only be extended to one of the roads chartered under the names of the Nashville and Southern Railroad Company, and the Tennessee and Alabama Railroad Company, provided that the first one of said roads which shall secure the subscription of the capital stock for the construction of the same shall be entitled to such aid.

Pending the question on the adoption of the amendment, on motion, the House took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The House resumed the consideration of the unfinished business of the morning session.

The amendment offered by Mr. Bentley pending, which amendment was adopted.

Ayes	41
Noes	24

The ayes and noes being demanded by Mr. Bentley.

Affirmative voters:

Messrs. Atkins, Barry, Bains, Bate, Battle, Bentley, Bowles, Bugg, Bullen, Campbell of Washington, Campbell of Williamson, Davis, Dean, Duggan, Fowler, Gore, Greer, Hardeman, Hardin, Hendrick, Henry of Bradley, Hubbard, Kimble, Kincaid Mabry, McClary, Moody, Murphy, Netherland, Palmer, Phillips, Ray, Senter, Sheid, Simpson, of Humphreys, Stephens, Stokes of DeKalb, Telford, Thompson, Whitaker and Wisener—41.

Negative voters:

Messrs. Anderson, Arledge, Brabson, Bratton, Cooke, Currin, Hamilton, Havron, Henry of Mortgomery, Houston, Hurt, Jackson, Miller, Morris, Mosby, Parker, Polk, Pope, Richardson, Sherrill, Simpson of Fentress, Stuart, Woodard and Mr. Speaker Stokes—24.

Mr. Bate offered further to amend said bill by inserting in the 9th line of the 10th section after the words "railroad company," the words "and the Tennessee Central Railroad Company," And after the words "Memphis Railroad," in the 1st line, 10th section, insert, "and provided this act shall not extend to or embrace more of the said Tennessee Central Railroad than that part which lies between the town of Fulton and the town of Jackson," which amendment was rejected.

Ayes	21
Noes	49

The ayes and noes being demanded by Mr. Bate.

Affirmative voters:

Messrs. Arledge, Bate, Bentley, Currin, Davis, Farquharson, Ferguson, Fowler, Hardin, Hendrick, Hubbard, Kimble, King, Mabry, Mosby, Polk, Phillips, Sheid, Simpson of Fentress, Telford and Whitaker—21.

Negative voters:

Messrs. Anderson, Atkins, Baines, Barry, Battle, Bowles, Brabson, Bugg, Bratton, Bullen, Campbell of Washington, Campbell of Williamson, Cooke, Dean, Duggan, Gore, Greer, Hamilton, Hardeman, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hurt, Jackson, Kincaid, McClary, McDuffie, Meeks, Miller, Moody, Murphy, Netherland, Palmer, Parker, Pope, Ray, Richardson, Senter, Sherrill, Simpson of Humphreys, Stephens, Stuart, Stokes of DeKalb, Thompson, Winchester, Wisener, Woodard and Mr. Speaker Stokes—49.

Mr. Henry of Bradley, offered to amend said bill by adding the following section, viz:

"Sec.—*Be it enacted*, That the provisions of this act shall extend to and embrace the Chattanooga, Blue Springs and Cleveland Railroad Company, provided said company shall procure *bona fide* subscriptions, sufficient to grade, bridge and prepare for the iron rails, the whole road proposed to be built by said company, as provided in the first section in this act, before the Chattanooga, Harrison, Georgetown and Charleston Railroad Company shall procure the stock of their said road as herein provided; and in that event the provisions of this act shall not extend to or embrace the last named company. But if the Chattanooga, Harrison, Georgetown and Charleston Railroad Company should first procure the stock for their road, and made known to the Governor, as provided in the first section of this act, then no bonds are to be issued to the Chattanooga, Blue Springs and Cleveland Railroad Company."

Which amendment was rejected.

Ayes	24
Noes	45

The ayes and noes being demanded by Mr. Henry of Bradley.

Affirmative voters:

Messrs. Anderson, Baines, Bently, Campbell of Williamson, Dean, Farquharson, Gore, Greer, Hardeman, Hardin, Hendrick, Henry of Bradley, Kincaid, McClary, Netherland, Palmer, Simpson of Humphreys, Stokes of DeKalb, Telford, Thompson, Whitaker, Wisener, Woodard, and Mr. Speaker Stokes—24.

Negative voters:

Messrs. Arledge, Atkins, Barry, Bate, Battle, Bowles, Brabson, Bugg, Bratton, Bullen, Campbell of Washington, Cooke, Currin, Davis, Duggan, Ferguson, Fowler, Hamilton, Havron, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kimble, King, McDuffie, Meeks, Miller, Moody, Mosby, Murphy, Parker, Polk, Phillips, Pope, Ray, Richardson, Senter, Sheid, Sherrill, Simpson of Fentress, Stephens, Stuart and Winchester.—45.

The question then recurred on the passage of the bill as amended—pending which, on motion, the House adjourned until to-morrow morning, 9 o'clock.

FRIDAY MORNING, January 30, 1852.

The House met pursuant to adjournment.

. . . .

AFTERNOON SESSION.

. . . .

The House then resumed the unfinished business on the adjournment of yesterday, being House Bill No. 219, to establish a system of Interal Improvements in this State.

The question on the passage of the bill on its third reading pending.

Mr. Kimble offered the following amendment, viz:

In the 15th section, 13th and 14th lines, strike out the words, "and may cross the Tennessee river at any point between Ross' Ferry and a point one mile below White Oak Island," and insert, "*Provided* said road shall be built as near as practicable on a direct line from Nashville to Memphis."

Mr. Atkins moved to lay said amendment on the table, which motion prevailed.

Mr. Stokes of Wilson, offered the following amendment to said bill, viz:

1st amendment.—In lieu of the 10th section, down to the word "and," in the 21st line, after the enacting clause, insert: "That the provisions of this act shall extend to and embrace the Chattanooga, Harrison Georgetown and Charleston Railroad Company; the Nashville and Northwestern Railroad Company, and the Nashville and Memphis Railroad Company, with a common Trunk Road to the Tennessee river, as provided in the 15th section of this act; the Memphis and Charleston Railroad Company; the Nashville and Southern Railroad Company; the East Tennessee and Georgia Railroad Company; and the Nashville and Cincinnati Railroad Company; and the Nashville and Louisville Railroad Company; on the terms and conditions prescribed in the said 15th section of this act; so far as the main trunk roads to be constructed by said companies lie within the limits of this State, and not otherwise, and said companies shall have all the powers and privileges and be subject to all the restrictions and liabilities contained in this act. *Provided*, that this act shall not extend to and embrace the East Tennessee and Georgia Railroad Company, unless said company shall extend their road so as to form a junction with the East Tennessee and Virginia Railroad at Knoxville; and in the event said company fail or refuse to extend the said road to make the said junction, then all the rights, powers and privileges, with the restrictions and liabilities of this act, shall enure to the benefit and extend to the Knoxville and Junction Railroad Company."

2d amendment.—Insert after the word "place," in 15th line of the 1st section, the words "*in the United States.*"

Mr. Pope called for the previous question—and the question, Shall the main question be now put? was had and determined in the negative.

Ayes	24
Noes	43

The ayes and noes being demanded by Mr. Farquharson,

Affirmative voters:

Messrs. Anderson, Arledge, Bently, Bowles, Brabson, Bullen, Campbell of Williamson, Currin, Duggan, Ferguson, Guild, Havron, Hendrick, Henry of Montgomery, Houston, Jackson, King, Marby, Murphy, Parker, Pope, Senter, Sheid and Stephens. —24.

Negative voters:

Messrs. Atkins, Bains, Bate, Battle, Bugg, Bratton, Campbell of Williamson, Cooke, Davis, Dean Farquharson, Gore, Greer, Hamilton, Hardeman, Henry of Bradley, Hubbard, Hurt, Kimble, Kincaid McClary, McDaniel, McDuffy, Meeks, Miller, Moody, Morris, Mosby, Netherland, Palmer, Polk, Phillips, Ray, Richardson, Sherrill, Simpson of Humphreys, Stuart, Stokes of DeKalb, Telford, Whitaker, Wisener, Woodard and Mr. Speaker Stokes.—43.

Mr. Jackson moved to lay the 1st amendment offered by Mr. Stokes of Wilson, on the table—which motion prevailed.

Ayes	35
Noes	32

The ayes and noes being demanded by Mr. Stokes of Wilson,

Affirmative voters:

Messrs. Anderson, Arledge, Atkins, Bentley, Bowles, Brabson, Bullen, Campbell of Washington, Currin, Duggan, Ferguson, Guild, Havron, Hendrick, Henry of Montgomery, Houston, Hurt, Jackson, Kincaid, King, McClary, McDuffie, Meeks, Mosby, Murphy, Parker, Polk, Pope, Ray, Senter, Sheid, Sherril, Stephens, Stuart and Telford.—35.

Negative voters:

Messrs. Bains, Bates, Battle, Bugg, Bratton, Campbell of Williamson, Cook, Davis, Dean, Farquarson, Gore, Greer, Hamilton, Hardeman, Henry of Bradley, Hubbard, Kimble, Maybry, McDaniel, Miller, Moody, Morris, Netherland, Palmer, Phillips, Richardson, Simpson of Humphreys, Stokes of DeKalb, Whitaker, Wisener, Woodward and Mr. Speaker Stokes.—32.

The House then adopted the 2d amendment offeren by Mr. Stokes of Wilson, and the amendment was ordered.

Mr. Houston moved a reconsideration of the vote laying the amendment offered by Mr. Wisener on yesterday, on the table.

Mr. Shied moved to lay the motion of Mr. Houston on the table—which motion was rejected.

The house then reconsidered the vote laying said amendment on the table.

Mr. Campbell of Washington called for the previous question, and the question, Shall the main the question be now put? was had and determined in the affirmative.

Ayes..............................43
Noes..............................26

The ayes and noes being demanded by Mr. Farquharson.

Affimative voters:

Messrs. Anderson, Areledge, Atkins, Bate, Battle, Bentley, Bowles, Brabson, Bugg, Bullen, Campbell, of Washington, Currin, Duggan, Ferguson, Gore, Guild, Havron, Hendrick, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kincaid. King, Mabry, McClary, McDuffie, Mosby, Murphy, Parker, Polk, Pope, Ray, Senter, Sheid, Sherrill, Simpson of Fentress, Stephens, Stuart, Telford and Wisener.—43.

Negative voters:

Messrs. Baines, Bratton, Campbell of Williamson, Cook, Davis, Dean, Farquharson, Greer, Hamilton, Hardeman, Hardin, Kimble, McDaniel, Meeks, Miller, Moody, Morris, Netherland, Palmer, Phillips, Richardson, Simpson of Humpreys, Stokes of DeKalb, Whitaker, Woodward and Mr. Speaker Stokes—26.

And the question, Shall the bill pass on its third reading? was had and determined in the affirmative.

Ayes..............................46
Noes..............................22

Being constitutionally required.

Affirmative voters:

Messrs. Anderson, Atkins, Bates, Battle, Bently, Bowles, Brabson, Bullen, Campbell of Washington, Cooke, Currin, Duggan, Ferguson, Gore Guild, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kincaid, King, Mabry, McClary, McDuffie, Meeks, Moody, Mosby, Murphy, Netherland, Parker, Polk, Pope, Ray, Senter, Sheid, Sherill, Simpson of Humphreys, Simpson of Fentress, Stpehens, Stuart Stokes of Dekalb, Telford and Whitaker—46.

Negative voters:

Messrs. Bains, Bugg, Bratton, Campbell of Williamson, Davis, Dean, Farquharson, Greer, Hamilton, Hardeman, Hardin, Hendrick, Kimble, McDaniel, Miller, Morris, Palmer, Phillips, Richardson, Wisener, Woodard and Mr. Speaker Stokes—22.

. . . .

MONDAY MORNING, February 2, 1852.

The House met pursuant to adjournment.

. . . .

NIGHT SESSION.

. . . .

Messrs. Martin and Winchester had leave to record their votes in the affirmative on the passage of House bill 219, to establish a system of internal improvements in this State, which was passed on the 30th ultimo.

. . . .

WEDNESDAY MORNING, February 4, 1852.

The House met pursuant to adjournment.

. . . .

Mr. Hardeman, from the Committee on Enrolled Bills. reported: That the Committee had examined

. . . .

House bill No. 219, to establish a system of Internal improvements in this State.

. . . .

THURSDAY MORNING, February 12, 1852.

The House met pursuant to adjournment.

. . . .

AFTERNOON SESSION.

House bills on third reading.

. . . .

Message from the Senate, No. 113, by Mr. Harrison, their clerk.

Mr. Speaker:

. . . .

The Senate has passed on their third reading House bill No. 219, to establish a system of internal improvements in this State, after amending said bill as per amendments herewith transmited, marked Nos, 1, 23, 4, 5, 6, 7 and 8; and said bill is herewith transmitted for concurrence in said amendments and for enrollment.

. . . .

WEDNESDAY MORNING, February 18, 1852.

The House met pursuant to adjournment.

. . . .

NIGHT SESSION.

. . . .

House bill No. 219, to establish a system of internal improvements in this State, with amendments marked Nos. 1, 2, 3, 4, 5, 6, 7 and 8.

Mr. Houston moved a concurrence in the Senate's amendment marked No. 1, which motion prevailed.

Mr. Brabson moved a concurrence in the Senate's amendment marked No. 2, which motion prevailed

Mr. Woodard offerred to amend the third amendment of the Senate, as follows, viz.: Insert the words "agreed to" before the words "locate and extend," and add at the end of said amendment the words "within ten years from the date of the passage of this act."

Which amendment was adopted, and the amendment as amended was concurred in by the House.

Mr. Houston offered an amendment in lieu of the 4th amendment of the Senate, which amendment wes adopted, and the amendment as amended was concurred in by the House.

Mr. Atkins moved a non-concurrence in the 5th amendment to said bill, which motion was rejected and the House concurred in said amendment.

Mr. Brabson move a non-concurence in the 6th amendment to said bill, which motion prevailed.

Mr. Jackson moved a non-oncurrence in the 7th amendment to said bill, which motion prevailed.

The House then concurred in the 8th amendment by the Senate to said bill, and said bill was ordered re-transmitted to the Senate.

. . . .

FRIDAY MORNING, February 20, 1852.

The House met pursuant to adjournment.

. . . .

AFTERNOON SESSION.

. . . .

Message from the Senate No. 124, by Mr. Harrison, their clerk.

Mr. Speaker:

. . . .

The Senate has concurred in the amendments to the Senate amendments to House bill No. 219, to establish a system of internal improvements in this State, marked 3 and 4. They have receded from their amendment marked 6, and adhere to and insist on their amendment marked No. 7. And the

House of Representatives are hereby informed thereof, and the said bills are herewith transmitted.

On motion the House proceeded to the consideration of Senate's message No. 124, transmitting House bill No. 219.

The House receded from its non-concurrence in Senate's amendment No. 7.

Ayes	47
Noes	21

The ayes and noes being demanded bp Mr. Jackson.

Affirmative voters:

Messrs. Bains, Bate, Bentley, Brabson, Bugg, Bratton, Campbell of Williamson, Curran, Dean, Fowler, Greer, Hamilton, Hardeman, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Kimble, Kincaid, King, Maybry, Martin, McDuffy, Moody, Mosby, Murphy, Netherland, Palmer, Polk, Phillips, Pope, Ray, Richardson, Senter, Shaw, Sheid, Sherrill, Simpson of Humphreys, Simpson of Fentress, Stephens, Stokes of DeKalb, Whitaker, Winchester, Wisener, Woodward and Mr. Speaker Stokes—47.

Negative voters:

Messrs. Anderson, Arledge, Atkins, Battle, Bowles, Bullen, Campbell of Washington, Cook, Duggan, Farquharson, Gore, Hardin, Havron, Hurt, Jackson, McClary, McDaniel, Meeks, Parker, Stuart and Telford—21.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of the action of the House of Representatives of the Twenty-seventh General Assembly of Tennessee, on House bill 219, taken from the House Journal of the Legislature of 1851-2, the original of which is now of record in my office.

In testimony whereof, I have hereunto
subscribed my official signature;
and, by order of the Governor, affixed the Great Seal of the State of
[SEAL.] Tennessee, at the Department in
the city of Nashville, this 4th day
of August, A. D. 1879.

CHAS. N. GIBBS,
Secretary of State.

WEDNESDAY MORNING, February 4, 1852.

The Senate met according to adjournment.

. . . .

Mr. Speaker: The House of Representatives has passed on their third reading.

. . . .

House bill No. 219, to establish a system of internal improvements in this State.

. . . .

THURSDAY MORNING, February 5, 1852.

The Senate met according to adjournment.

On Motion of Mr. Gillespie, the rule was suspended and the Senate took up and passed on its first reading in the Senate, House bill No. 219, entitled a Bill to establish a System of Internal Improvements in this State.

On motion of Mr. Gillespie, the rule was suspended and the bill referred to the Committee on Internal improvements.

. . . .

SATURDAY, February 7, 1852.

The Senate met pursuant to adjournment.

. . . .

Mr. Deaderick, from the Committee on Internal Improvements, reported and recommended the passage of House bill No. 219, to establish a system of internal improvements in this State, with the following amendments:

1st. Amend the first section by inserting after the word "bridged," in the 11th line, the words, "and shall have ready to."

2d. In sixteenth line, same section, after the word "whatever," insert the words, "other than those created in favor of the State by the acts of 1851-2.

3d. In the fifteenth section, seventh line from top of twelfth page, strike out the words, "the river opposite," and at the end of said section add the following:

"Provided, further, that the bonds of the State shall not issue to the Louisville and Nashville Railroad Company, or the Nashville and Cincinnati Railroad Company, as provided in this act, unless one of said companies shall locate and extend its road across Cumberland river at or convenient to Nashville or South Nashville.

4th. Add to nineteenth section the following:

"Provided, that the Nashville and Southern Railroad Company, and the Tennessee and Alabama Railroad Company, shall construct their railroads by the way of Franklin, Spring Hill, Columbia, and by or convenient to Mount Pleasant, which State aid shall be granted upon the same terms and conditions as are prescribed in this act in extending the aid of the State to the other railroads herein provided for. And if the aid of the State is given to the Tennessee and Alabama Railroad from Nashville to the Alabama State line, in the direction of Florence, as provided for in this act, then the Nashville and

Southern Railroad Company shall have the right to connect their road with the said Tennessee and Alabama Railroad at such point as they may designate, and the aid of the State is hereby extended to said road as fully as provided for any other road embraced in this act, from where it intersects the said Tennessee and Alabama Railroad, to its terminus at the Mississippi State line, or to a point on the Mobile and Ohio Railroad, the Memphis and Charleston Railroad, or the New Orleans Railroad. But if the aid of the State should be given to the Nashville and Southern Railroad under the provisions of this act, then the Tennessee and Alabama Railroad shall have the right to connect with said Nashville and Southern Railroad at such point as they may designate, and the aid of the State shall be extended to said road, as provided for other roads in this act, from the point of intersection with said Nashville and Southern Railroad to the line of the State of Alabama in the direction of Florence. All of said amendments were adopted.

Mr. Rogers offered an amendment to insert in the 17th line of the 10th section, after the words, "Winchester and Alabama Railroad Company," the words "the Tennessee Central Road from its terminus on the Mississippi river to the Tennessee river," which amendment was rejected.

Mr. Tedford offered an amendment of an additional section, extending the benefits and provisions of the act to the Knoxville and North Carolina road up the Little Tennesee river.

Said amendment was rejected by the following vote:

Ayes	11
Noes	13

Affirmative voters:

Messrs. Cariger, Carter, Cook, Davis of Cannon, Davis of Marshall, Doyle, Gillespie, McCammon Tedford, Wester and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Ball, Bradbury, Burrus, Deadrick, Dunlap of Henry, Dunlap of Shelby, Fogg, McClain, Osborne, Pavatt, Rogers and Whitfield.

Mr. Gillespie offered an amendment to insert after the words "the Winchester and Alabama Railroad Company" in the 10th section, the words "the Pikeville and Jasper Railroad Company."

Said amendment was rejected by the following vote:

Ayes	8
Noes	16

Affirmative voters:

Messrs. Carter, Cooke, Davis of Marshall, Doyle, Gillespie, Tedford, Wester and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Ball, Bradbury, Burrus, Carriger, Davis of Cannon, Deaderick, Dunlap of Henry, Dunlap of Shelby, Fogg, McCammon, McClain, Osborne, Pavatt, Rogers and Mr. Whitfield.

Mr. McCammon offered an amendment amending an act entitled an act to aid in completion of the East Tennesee and Georgia railroad.

Said amendment was rejected.

Mr. Pavatt offered an amendment to strike out the words "eight thousand dollars per mile," and insert the words "six thousand dollars," which amendment was rejected by the following vote:

Ayes	9
Noes	14

Affirmative voters:

Messrs. Anderson, Bradbury, Burns, Carter, Davis of Marshall, Dunlap of Henry, Dunlap of Shelby, Pavatt and Mr. Speaker Hill.

Negative voters:

Messrs. Ball, Carriger, Davis of Cannon, Deaderick, Doyle, Fogg, Gillespie, McCammon, McClain, Osborne, Rogers, Tedford, Wester and Whitfield.

Mr. Dunlap of Shelby offered an amendment to insert after the words, "or section thereof," in the 5th line of the 15th section, the words, "provided that in computing the ton of iron it shall be rated at two thousand pounds."

Said amendment was adopted.

Mr. Dunlap of Shelby offered an amendment of the following additional section, viz:

Sec. —That no road embraced in this bill shall be entitled to State aid unless it shall within three years complete at least one section of thirty miles, or the whole length of the road if less than thirty miles long.

Mr. Rogers offered an amendment to said amendment to strike out the word "three" and insert the word "four," which amendment was adopted, and the amendment as amended was adopted.

Mr. Fogg offered an amendment to strike out the words "Chattanooga, Harrison, Georgetown, and Charleston Railroad Company," in the 10th section, and insert the words, "Chatannooga, Blue Spring, and Cleveland Railroad Company."

And pending the question on said amendment, on motion of Mr. Doyle the Senate took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The Senate met according to adjournment.

. . . .

The Senate then proceeded to the consideration of the unfinished business of the morning, viz., House Bill No. 219.

The amendment which was pending when the Senate adjourned, offered by Mr. Fogg, was rejected by the following vote:

Affirmative voters, none.

Negative voters:

Messrs. Ball, Bradbury, Burris, Carriger, Carter, Cooke, Davis of Cannon, Davis of Marshall, Deaderick, Dunlap of Henry, Dunlap of Shelby, Gillespie, McClain, Osborne, Rogers, Wester, Whitfield, and Mr. Speaker Hill—18.

Mr. Doyle moved to lay the bill on the table, which motion was lost.

Mr. Anderson offered an amendment of an additional section providing that the bonds which shall be issued under the provisions of said bill, or any other bill passed by the present General Assembly, shall not be sold for less than their par value.

Mr. Deaderick moved to lay said amendment on the table, which motion prevailed by the following vote:

Ayes	15
Noes	6

Affirmative voters:

Messrs. Ball, Carriger, Cooke, Davis of Cannon, Deaderick, Doyle, Dunlap of Shelby, Gillespie, McCammon, Osborne, Pavatt, Tedford, Wester, Whitfield, and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Burris, Davis of Marshall, Fogg, McClain, and Rogers.

Mr. Pavatt offered an amendment of two additional sections.

Mr. Gillespie moved the previous question, which motion was sustained by the Senate.

The report of the committee was concurred in, and the bill passed its second reading in the Senate.

. . . .

WEDNESDAY, February 11, 1852.

The Senate met according to adjournment.

. . . .

Mr. Gillespie moved to suspend the rule, and take up House Bill No. 219, which motion was lost.

. . . .

House Bill No. 219, entitled a bill to establish a system of Internal Improvements in this State, was taken up.

Mr. Rogers moved to lay said bill on the table, which motion was lost.

Mr. Pavatt offered an amendment as follows, viz.:

SEC. 16. *Be it further enacted*, That it shall be the duty of the president and directors of any of the companies who may apply for the benefits of the provisions of this act to faithfully and justly apply and expend all the money arising from the sale of bonds issued under the provisions of this act, in the purchase of railroad iron, chairs, spikes, and equipments for such road, and if it shall appear at any time that such money or the proceeds thereof arising from such bonds by the willful act of the directors or an officer or agent of the company has not been so expended, and the proceeds of the same has not been applied to the road contemplated to be built, the stockholders of such company and their assigns shall be liable in their individual and private capacity for the principa land interest arising on such bonds so issued. And it shall be the duty of the Attorney General of the State, or any other person who may be appointed by the authority of the State, whenever he shall be duly notified by the Governor or any of the persons appointed by the provisions of this act, or who may hereafter be appointed to take care of the interest of the State, that the whole of the proceeds of the bonds so issued have not been applied to the purchase of railroad iron, chairs, spikes and equipments for such road in pursuance of this act, and the charters under which such companies may be formed, and shall not in each and every substantial thing comply with the requirements of this act, said Attorney General, or such other officer so appointed, shall, from time to time, commence suits in the name of the State against such company, either in their corporate or individual capacity, for the interest arising on such bonds, for which they shall be liable, and shall be paid according to the requisition of such bond. And each and every judgment so obtained shall be a lien upon the individual and private property of such stockholders and their assigns until the same is fully paid.

Mr. Deaderick offered an amendment in lieu of said amendment, which was rejected by the following vote, viz.:

Ayes	9
Noes	12

Affirmative voters are:

Messrs. Ball, Carriger, Davis of Cannon, Dunlap of Henry, Fogg, Gillespie, McCammon, Osborne and Rogers.

Negative votes:

Messrs. Anderson, Bradbury, Carter, Cooke, Davis of Marshall, Dunlap of Shelby, McClain, Pavatt, Tedford, Wester, Whitfield, and Mr. Speaker Hill.

On motion of Mr. Davis of Cannon, the Senate adjourned until 2 o'clock P. M.

AFTERNOON SESSION.

The Senate met pursuant to adjournment, and resumed the consideration of the business pending when the Senate adjourned.

Mr. Speaker Hill (Mr. Davis of Marshall in the chair), offered the following as an amendment in lieu of the amendment offered by Mr. Pavatt, viz.:

That each of said companies is hereby authorized and required to appoint an agent or agents to whom the bonds shall be delivered, and whose duty it shall be to control said bonds and see that they are exclusively applied to the payment of the railroad iron and equipments as provided for in this act, and for no other purposes whatever. And the said agent, before he receives the bonds of the State, shall give bond and security to be approved by the Governor and payable to the State of Tennessee for the application of the bonds or the proceeds thereof to the purposes aforesaid.

Which amendment was adopted by the following vote, viz.:

Ayes	15
Noes	9

Affirmative voters:

Messrs. Ball, Bradbury, Carriger, Carter, Davis of Cannon, Deaderick, Dunlap of Shelby, Fogg, Gillespie, McCammon, McClain, Osborne, Rogers, Wester, and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Burrus, Cooke, Davis of Marshall, Doyle, Dunlap of Henry, Pavatt, Tedford and Whitfield.

The amendment as amended was then adopted.

Mr. McClain offered an amendment requiring a list of the names of the stockholders, and the amount subscribed by each to be filed in the office of the Secretary of State, which was adopted.

Mr. Speaker Hill (Mr. Davis of Marshall in the Chair), offered an amendment providing that in the event the Memphis and Nashville Railroad Company or the Nashville and North-western Railroad Company, fail to complete thirty miles of said road, the Central Railroad Company shall be entitled to the provisions of this bill.

Which amendment was adopted by the following vote, viz:

Ayes	20
Noes	3

Affirmative voters:

Messrs. Anderson, Bradbury, Burrus, Carriger, Carter, Davis of Cannon, Davis of Marshall, Deaderick, Dunlap of Shelby, Fogg, Gillespie, McCammon, McClain, Osborne, Pavatt, Rogers, Tedford, Wester, Whitfield, and Mr. Speaker Hill.

Negative voters:

Messrs. Ball, Doyle, and Dunlap of Henry.

Mr. Dunlap of Henry offered an amendment to be inserted after the proviso offered by Mr. Speaker Hill, which was adopted.

Mr. Fogg offered an amendment of an additional section, as follows, to-wit:

Be it enacted, That if any of said companies fail to procure the subscriptions for the capital stock sufficient to grade, bridge, and prepare for the iron rails the whole extent of the main trunk line of said road to be constructed by such company, as provided in the first section of this act, and fail to make the same known to the Governor, as therein prescribed, before the first Monday in October, 1853, then the provisions of this act shall not extend to or embrace such company and no bond of the State shall be issued to any such company or companies.

Mr. Speaker Hill (Mr. Davis of Marshall in the chair) moved to lay said amendment on the table.

Which motion prevailed by the following vote, viz:

Ayes................................15
Noes................................ 9

Affirmative voters:

Messrs. Ball, Bradbury, Carriger, Davis of Cannon, Deaderick, Dunlap of Henry, Dunlap of Shelby, Gillespie, McCammon, Osborne, Rogers, Tedford, Wester, Whitfield, and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Burrus, Carter, Cook, Davis of Marshall, Doyle, Fogg, McClain, and Pavatt.

Mr. Tedford offered an amendment of an additional section, viz:

Be it further enacted, That the Lexington and Knoxville and the Knoxville and North Carolina Railroad shall have the aid of the State under the same rules, regulations, and restrictions that other roads in this bill are entitled to.

Which amendment was rejected by the following vote, viz:

Ayes................................11
Noes................................11

Affirmative voters:

Messrs. Carriger, Carter, Davis of Marshall, Doyle, Dunlap of Shelby, Gillespie, McCammon, Rogers, Tedford, Wester, and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Bradbury, Cook, Davis of Cannon, Deaderick, Dunlap of Henry, Fogg, McClain, Osborne, Pavatt, and Whitfield.

Mr. Gillespie called for the previous question, and the question being taken "shall the main question be now put," was decided in the negative, by the following vote, viz:

Ayes	11
Noes	13

Affirmative voters:

Messrs. Ball, Davis of Cannon, Deaderick, Dunlay of Shelby, Fogg, Gillespie, McCammon, Osborne, Rogers, Whitfield, and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Bradley, Burrus, Carriger, Carter, Cook, Davis of Marshal, Doyle, Dunlap, of Henry, McClain, Pavatt, Tedford, and Webster.

Mr. Pavatt offered an amendment to strike out the words "eight thousand dollars" in the first section and insert the words "seven thousand dollars."

Which amendment was adopted by the following votes, viz.:

Ayes	13
Noes	11

Affirmative voters:

Messrs. Anderson, Bradbury, Burrus, Carter, Cook, Davis of Marshall, Dunlap of Henry, Dunlap of Shelby, McClain, Pavatt, Rogers, Whitfield, and Mr. Speaker Hill

Negative voters:

Messrs. Ball, Carriger, Davis of Cannon, Deaderick, Doyle, Fogg, Gillespie, McCammon, Osborne Tedford, and Wester.

Mr. Dunlap of Shelby, moved to reconsider the vote adopting said amendment.

Which motion prevailed by the following vote, viz.:

Ayes	15
Noes	9

Affirmative voters:

Messrs. Ball, Carriger, Davis of Cannon, Deaderick, Doyle, Dunlap of Henry, Fogg, Gillespie, McCammon, Osborne, Rogers, Tedford, Wester, Whitfield, and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Bradbury, Burrus, Carter, Cook, Davis of Marshal, Dunlap of Shelby, McClain, and Pavatt.

Said amendment was then rejected by the following vote, viz.:

Ayes	10
Noes	14

Affirmative voters:

Messrs. Anderson, Bradbury, Burrus, Carter, Cook, Davis of Marshall, Dunlap of Shelby, McClain, Pavatt and Whitfield.

Negative voters:

Messrs. Ball, Davis of Cannon, Deaderick, Doyle, Dunlap of Henry, Fogg, Gillespie, McCammon, Osborne, Rogers, Tedford, Wester, and Mr. Speaker Hill.

Mr. Anderson moved to reconsider the vote rejecting the amendment offered by Mr. Tedford, which motion prevailed.

Said amendment was again rejected by the following vote:

Ayes	11
Noes	13

Affirmative voters:

Messrs. Carriger, Carter, Cook, Davis of Marshall, Doyle, Gillespie, McCammon, Rogers, Tedford, Wester, and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Ball, Bradbury, Burrus, Davis of Cannon, Deaderick, Dunlap of Henry, Dunlap of Shelby, Fogg, McClain, Osborne, Pavatt, and Whitfield.

And the bill passed its third and last reading in the Senate by the following vote, viz:

Ayes	15
Noes	9

Affirmative voters:

Messrs. Ball, Carriger, Davis of Cannon, Deaderick, Doyle, Dunlap of Henry, Dunlap of Shelby, Fogg, Gillespie, McCammon, Osborne, Rogers, Tedford, Wester, and Mr. Speaker Hill.

Negative voters:

Messrs. Anderson, Bradbury, Burrus, Carter, Cook, Davis of Marshall, McClain, Pavatt, and Whitfield.

Mr. Dunlap of Henry stated that he voted for the internal improvement bill in obedience to the will of his constituents.

On motion of Mr, Davis of Cannon, the rule was suspended, and said bill and all other bills passed by the Senate on their third readings up to this time, and which have not been transmitted, were ordered to be forthwith transmitted to the House of Representatives.

. . . . .

MONDAY MORNING, Feb. 16, 1852.

The Senate met pursuant to adjournment.

. . . . .

Mr. Whitfield offered an amendment appointing additional commissioners on the Tennessee and Alabama Railroad, which was adopted, and the bill as amended passed.

. . . . .

THURSDAY, Feb. 19, 1852.

The Senate met according to adjournment.

. . . . .

A message from the House of Representatives by Mr. Leuty, their clerk.

Mr. Speaker :—

. . . . .

The House has concurred in the amendments of the Senate to House bill No. 219, marked 1, 2, 5, and 8. Also concurred in the 3d and 4th amendments of said bill, after amending said amendments as per amendments thereby attached.

They have non-concurred in the amendments marked 6 and 7.

And the Senate are hereby informed thereof, and said bill is herewith transmitted.

. . . . .

SATURDAY, Feb. 21, 1852.

The Senate met pursuant to adjournment.

. . . . .

A message from the House of Representatives by Mr. Leuty, their clerk.

Mr. Speaker :—

The House of Representatives has concurred in the amendments of the Senate to House bills of the following titles, viz :

. . . . .

No. 219.

"To establish a system of internal improvements in this State."

And the Senate are hereby informed thereof.

I, C. N. Gibbs, Secretary of State for the State of

Tennessee, do certify that the foregoing is a copy of the action of the Senate of the 29th General Assembly of Tennessee on House bill No. 219, taken from the Senate Journal of the Legislature of 1851–2, the original of which is now of record in my office.

In Testimony Whereof, I have hereunto subscribed my Official Signature, and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 4th day of August, A. D. 1879.

[SEAL.]

CHAS N. GIBBS,
Secretary of State.

ACTS OF 1851–52, CH. 89, P. 110, PASSED FEBRUARY 4, 1852.

AN ACT to aid in the completion of the East Tennessee and Georgia Railroad.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That for the purpose of aiding in the completion of the East Tennessee and Georgia Railroad, so soon as the Governor may be satisfied that a good, substantial and permanent bridge has been constructed and finished complete across the Tennessee river, at or near Blair's ferry, ready for laying down the iron rails thereon, to be begun, carried on and completed under the direction and superintendence of the engineer of said railroad, and to be perfected by him and accepted as finished, then and in that case, it shall be the duty of the Governor to issue to said company coupon bonds of the State of Tennessee, sufficient to pay for the construction of said bridge: *Provided*, that he shall not issue more than one hundred thousand dollars in bonds as aforesaid for said object, and which said bonds shall bear an interest of six per cent. per annum, and have not less than thirty nor more than forty years to run to maturity.

SEC. 2. *Be it enacted*, That for the purpose of enabling the said company to raise a fund for the payment of the interest on said bonds, and also to pay the principal thereof, at or before maturity, the said company are authorized and required to demand and receive from all passengers crossing said bridge in said railroad cars, in addition to the regular charges, the further sum of ten cents on each passenger, as bridge toll, and it shall be the duty of the said company to collect the said sum at the time the regular passage money is collected, and to render a monthly account thereof. and pay over monthly the said sum in some bank at Knoxville, taking the receipt of the bank therefor, and the sum so deposited in bank shall at all times be subject to the check of the comptroller of the Treasury for the payment of the interest on said bonds, and any overplus after the payment of said interest, shall be passed to the credit of the company in discharge of the principal due on any one or more of said bonds. *Provided*, that as soon as the interest and principal of said bonds shall be paid, the said company shall be released from the exaction of said additional charge.

SEC. 3. *Be it inacted*, That the express conditions on which any bonds under this act shall be issued to said company. are, that upon the issuance of said bonds the said railroad and bridge, with all the appurtenances thereto belonging, and the interest of the individual stockholders therein, and the tolls, issues and profits of said road and bridge, shall be and is by force of this act vested in the State for the security of the State against the payment of the bonds issued under this act and the interest thereon, and the State is hereby declared to be vested with all the rights to have and hold upon the issuance of the bonds authorized by this act, the entire road and bridge and all the appurtenances thereto belonging, and all the tolls, issues and the profits of the stock for the security of the payment of said bonds and the interest thereon accruing, as a mortgage to secure the payment of the same, and said road and all its appurtenances of every kind and description, shall be subject to any law that has been or may hereafter be passed for the enforcement of mortgages in like cases.

Sec. 4. *Be it enacted*, That if the East Tennessee and Georgia Railroad Company shall not undertake to complete that road to Knoxville, the benefits of this act shall enure to and be conferred upon any railroad company that will undertake the same and comply with the provisions of this act.

Sec. 5. *Be it enacted*, That if the East Tennessee and Georgia Railroad Company, or any other company that will undertake to complete said road to Knoxville, shall locate said road on a different route than may make it necessary to construct a bridge across the Tennessee river at or near Blair's ferry, the provisions of this act shall enure and apply to any bridge or bridges that may be constructed upon such other route, but in no case shall the amount of bonds to be issued exceed one hundred thousand dollars.

SEC. 6. *Be it enacted*, That no bridge or bridges to be constructed on said road, shall obstruct the free navigation of any river or rivers.

JORDAN STOKES,
Speaker of the House of Representatives.

M. R. HILL,
Speaker of the Senate.

ACTS OF 1851-2, CH. 151, P. 204, PASSED FEB. 11, 1852.

AN ACT to establish a system of Internal Improvements in this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That whenever the East Tennessee and Virginia Railroad Company shall have procured *bona fide* subscriptions for the capital stock in said company to an amount sufficient to grade, bridge, and prepare for the iron rails the whole extent of the main trunk line proposed to be constructed by said company, and it shall be shown by said company to the Governor of the State, that said subscriptions are good and solvent, and whenever said company shall have graded, bridged, and shall have ready to put down the necessary timbers for the reception of rails, and fully prepared a section of thirty miles of said road at either terminus, in a good and substantial manner, with good materials, for putting on the iron rails and equipments, and the Governor shall be notified of these facts, and that said section, or any part thereof, is not subject to any lien whatever, other than those created in favor of the State by the acts of 1851-2, by the written affidavits of the chief engineers and president of said company, together with written affidavit of a competent engineer, by him appointed, at the cost of the company, to examine said section, then said Governor shall issue to said company *coupon* bonds of the State of Tennessee to an amount not exceeding eight thousand dollars per mile on said section, and on no other condition, which bonds shall be payable at such place in the United States as the President of the company may designate, bearing an interest of *six per centum per annum*, payable semi-annually, and not having more than forty, nor less than thirty years to mature.

SEC. 2. *Be it enacted*, That the bonds before specified, shall not be issued by said company, for any other purposes than for procuring the iron rails, chairs, spikes, and equipments for said section of said road, and for putting down said iron rails, and the Governor shall not issue the same, unless upon the affidavit of said President and a resolution of a majority of the board of directors, for the time being, that said bonds shall not be used for any other purpose than for procuring the said iron rails, chairs, spikes and equipments, for said section, and for putting down said iron rails, and the Governor shall have power to appoint a commissioner to act under oath, in conjunction with said President in negotiating said bonds for the purpose aforesaid, and to act in any other matters pertaining to said company, where the interest of the State, in the opinion of the Governor may require it.

SEC. 3. *Be it enacted*, That so soon as the bonds of the State shall have been issued for the first section of the road as aforesaid, they shall constitute a lien upon said section so prepared aforesaid, including the road bed, right of way, grading, bridges and masonry, upon all the stock subscribed for in said company, and upon said iron rails, chairs, spikes and equipments, when purchased and delivered, and the State of Tennessee, upon the issuance of said bonds and by virtue of the same, shall be invested with said lien or mortgage without a deed from the company, for the payment by said company of said bonds, with the interest thereon as the same becomes due.

Sec. 4. *Be it enacted*, That when said company shall have prepared as aforesaid, a second section, or any additional number of sections of twenty miles each of said road, connecting with a section already completed, for the iron rails, chairs, spikes and equipments, as provided in the first section of this act, and the Governor shall be notified of the facts as before provided, he shall, in like manner, issue to said company like bonds of the State or Tennessee to an equal amount with that before issued under the first section of this act, for each and every section of twenty miles of said road so prepared as aforesaid, but upon the terms and conditions herein before provided, and upon the issuance of the said bonds, the State of Tennessee shall be invested with a like mortgage or lien without a deed from said company, upon said stock, and upon said first and additional section or sections of said road so prepared, upon the rails and equipments put, or to be put upon the same, for the payment of said bonds and the accruing interest thereon. *Provided*, that if the last section of said road shall be less than twenty miles, or if the railroad proposed to be constructed by any company hereinafter specified, shall be less than thirty miles in extent, bonds of the State shall be issued for such section, or such railroad as may be less than thirty miles in extent, for an amount in proportion to the distance as provided in this act, but upon the same terms and conditions, in all respects, as required in regard to the bonds to be issued for the other sections of said road. And when the whole of said road shall be completed, the State of Tennessee shall be invested with a lien, without a deed from the company, upon the entire road, including the stock, right of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the company as incident to, or necessary for its business; and all the depots, and depot stations, for the payment of all of said bonds issued to the company as provided in this act, and for the interest accruing on said bonds. And after the Governor shall have issued bonds for the first section on the road, it shall not be lawful for said company to give, create, or convey to any person or persons, or body corporate whatever, any lien, encumbrance or mortgage of any kind which shall have priority over, or come in conflict with the lien of the State herein secured; and any such lien, incumbrance, or mortgage, shall be null and void as against said lien or mortgage of the State, and the said lien or mortgage of the State shall have priority over all other claims existing or to exist against said company.

SEC. 5. *Be it enacted*, That it shall the duty of said company to deposit in the Bank of Tennessee at Nashville, at least fifteen days before the interest becomes due, from time to time, upon said bonds issued as aforesaid, an amount sufficient to pay such interest, including exchange and necessary commissions, or satisfactory evidence that said interest has been paid or provided for, and if said company fail to deposit said interest as aforesaid, or furnish the evidence aforesaid, it shall be the duty of the Comptroller to report that fact to the Governor, and the Governor shall immediately appoint some suitable person or persons, at the expense of the company, to take possession and control of said railroad, and all the assets thereof, and manage the same and receive the rents, issues, profits and dividends thereof, whose duty it shall be to give bond and security to the State of Tennessee, in such penalty as the Governor may require, for the faithful discharge of his or their duty, as receiver or receivers, to receive said rents, issues, profits and dividends, and pay over the same under the direction of the Governor towards the liquidation of such unpaid interest. And if said company fail or refuse to deliver up said road to the person or persons so appointed by the Governor, the said person so appointed shall report that fact to the Governor, who shall forthwith issue his warrant, directed to the sheriffs of the counties through which said road shall run, commanding them to take possession of said road, fixtures and equipments, and everything pertaining thereto, and place the said receiver in full and complete possession of the same, and said receiver so appointed shall continue in the possession of said road, fixtures and equipments, and run the same and manage the entire road until a sufficient sum shall be realized, exclusive of the costs and expenses, incident to said proceedings, to pay off and discharge the interest aforesaid, due on said bonds, which being done, the receiver shall surrender said road and fixtures and equipments to said company. The Comptroller shall from time to time, settle the accounts with the receiver, and the balance shall be deposited with the Treasurer of the State. The Comptroller is authorized, and it is made his duty, upon his warrant to draw from the Treasury, any sum of money necessary to meet the interest on such bonds, as may not be provided for by the company, as provided for in this act, and the Comptroller shall report thereof to the General Assembly from time to time.

SEC. 6. *Be it enacted*, That if said company shall fail or refuse to pay any of said bonds when they fall due, it shall be the duty of the Governor to notify the Attorney General of the District in which is situated the place of business of said company, of the fact, and thereupon, said Attorney General shall forthwith file a bill against said company in the name of the State of Tennessee, in the Chancery or Circuit Court of the county in which is situated said place of business, setting forth the facts, and thereupon said court shall make all such orders and decrees in said cause as may be deemed necessary by the court, to receive the payment of said bonds, with the interest thereon, and to indemnify the State of Tennessee against any loss on account of the issuance of said bonds, by ordering the said railroad to be placed in the hands of a receiver, ordering the sale of said road, and all the property and assets attached thereto or belonging to said company, or in such other manner as the court may deem best for the interest of the State.

SEC. 7. *Be it enacted*, That at the end of five years after the completion of said road, said company shall set apart one *per centum per annum* upon the amount of bonds issued to the company, and shall use the same in the purchase of *bonds of the State of Tennessee, which bonds*, the company shall pay into the Treasury of the State after assigning them to the Governor, and for which the Governor shall give said company a receipt, and as between the State and said company, the bonds so paid in shall be a credit on the bonds issued to the company. And bonds so paid in and the interest accruing thereon, from time to time, shall be held and used by the

State as a sinking fund, for the payment of the bonds issued to the company, and should said company re-purchase any of the bonds issued to it under the provisions of this act, they shall be a credit as aforesaid and cancelled. And should said company fail to comply with the provisions of this section, it shall be proceeded against, as provided in the fifth section of this act.

SEC. 8. *Be it enacted*, That the President of the company shall make semi-annual reports under oath, to the Governor, until the completion of said road, setting forth fully the condition of the road and the company, and after its completion, he shall report to the Governor, showing the financial condition of the company, giving a statement of the trade and travel upon the road, the receipts and expenditures, nett earnings and dividends, and what per cent. is paid on the stock to the stockholders. And said reports shall be consolidated every two years by the President of said company, and said consolidated reports shall be laid before the Governor by the first of September every two years after the completion of the road, and the Governor shall lay said report before the Legislature for its action, at the next meeting thereof, after said report is made.

SEC. 9. *Be it enacted*, That it shall not be lawful for any officer of said company to engage in any speculation or dealing either directly or indirectly, in any real estate on or along the line, at any of the depots or depot stations, or at either terminus of said road, until after the road is completed, and every officer of the company before entering upon the duties of his office, shall take an oath in writing before any judge or justice of the peace in this State, that he will not knowingly violate the provisions of this act, and that he will faithfully perform the duties of his office, and if any such officer of the company, or other person taking an oath as herein provided, knowingly swear falsely, he shall be deemed guilty of perjury and subject to all the pains and penalties thereof, and every affidavit required under this act, may be sworn to before any judge or justice of the peace in this State.

SEC. 10. *Be it enacted*, That the provisions of this act, shall extend to and embrace the Chattanooga, Harrison, Georgetown and Charleston Railroad Company, the Nashville and Northwestern Railroad Company, the Louisville and Nashville Railroad Company, the southwestern Railroad Company, the McMinnville and Manchester Railroad Company, the Memphis and Charleston Railroad Company, the Nashville and Southern Railroad Company, the Mobile and Ohio Railroad Company, the Nashville and Memphis Railroad Company, the Nashville and Cincinnati Railroad Company, the East Tennessee and Georgia Railroad Company, the Memphis, Clarksville and Louisville Railroad Company, and the Winchester and Alabama Railroad Company, so far as the main trunk roads to be constructed by said companies lie within the limits of this State, and not otherwise; and said companies shall have all the powers and privileges, and be subject to all the restrictions and liabilities contained in this act. *Provided*, that this act shall not extend to or embrace more of the road proposed to be built by the Memphis, Clarksville and Louisville Railroad Company, than that part which lies between the Kentucky line, and the Nashville and Northwestern Railroad or the Nashville and Memphis Railroad. *and proviaed further*, That this act shall not extend to or embrace the East Tennessee and Georgia Railroad Company, unless said company shall extend their road so as to form a junction with the East Tennessee and Virginia Railroad at Knoxville; and in the event said company fail or refuse so to extend their said railroad to make said junction, then all the rights, powers and privileges, with the restrictions and liabilities of this act, shall extend to any company that may be hereafter chartered for the purpose of building a railroad to make said connection; and in no event shall the provisions of this act extend to or embrace more of the East Tennessee and Georgia Railroad, than that part which lies between Blair's Ferry and the city of Knoxville. *And provided*, That any lien now existing on the East Tennessee and Georgia Railroad, shall not prevent the issuance of bonds for its benefit as herein provided, but the affidavits required in the first secsection of this act, shall be deemed sufficient as applicable to said company, if it is stated in said affidavits that no lien has been created on said road since the passage of this act.

Sec. 11. *Be it enacted*, That the guage of all of said railroads (unless connecting with roads in other States of a different guage) shall be the same as that of the Nashville and Chattanooga Railroad, and not otherwise—and the iron rails to be put upon said road, shall not be less than eighty tons to the mile, if the U rail is used, and not less than one hundred tons to the mile, if the T rail is used.

Sec. 12. *Be it enacted*, That the State of Tennessee expressly reserves the right to enact by the legislature thereof hereafter, all such laws as may be deemed necessary to protect the interest of the State, and to secure the State against any loss, in consequence of the issuance of bonds, under the provisions of this act. But in such manner as not to impair the vested rights of the stockholders.

SEC. 13. *Be it enacted*, That it shall be the duty of the Governor, from time to time, when there shall be reliable information given to him, that any railroad company shall have fraudulently obtained the issuance of the bonds of the State, or shall have obtained any of said bonds contrary to the provisions of this act, he shall notify the Attorney General of this State, whose duty it shall be, forthwith to institute in the name of the State, a suit in the Circuit or Chancery Court, of the county of the place of business of the company, setting forth the facts. And when the fact shall satisfactorily appear to the Court, that any of said bonds shall have been fraudulently obtained, or obtained contrary to the true intent, meaning and provisions of this act, then and in such case, the Court shall order, adjudge and decree, that said road lying in the State, with all the property and assets of said company, or a sufficiency thereof, shall be sold, and the proceeds shall be paid into the Treasury, and it shall be the duty of the Comptroller immediately to vest the same in stocks, creating a sinking fund, as provided for in the 7th section of this act. And said company shall forfeit all rights and privileges under the provisions of this act. And the stockholders thereof, shall be individually liable for the payment of the bonds so fraudulently obtained by such company, and for all other losses that may fall upon the State, in consequence of the commission of any other fraud by such company, excepting such stockholders as may show to the said Court that they were ignorant of or opposed the perpetration of such frauds by the company.

SEC. 14. *Be it enacted*, That in the event any of the roads, fixtures, or property belonging to any of said roads, shall be sold under the provisions of this act, it shall be the duty of the Governor to appoint an agent for the State, who shall attend said sale and protect the interest of the State, and shall, if necessary to protect said interest, buy in said road or proterty in the name of the State, and in case said agent shall purchase said road for the State, the Governor shall appoint a receiver, who shall take possession of said road and property, and use the same as provided for in the 5th section of this act, and said receiver shall settle with the Comptroller semi-annually, until the next meeting of the General Assembly.

SEC. 15. *Be it enacted*, That this act shall be deemed and taken to be a public act as to all purposes of notice. *Provided*, that should any of the companies hereinbefore enumerated, have *bona fide*, and before the passage of this act, purchased or otherwise contracted for, upon their own credit, the necessary iron, rails, spikes, equipments, &c., for their road or roads, or any section or sections thereof, the bonds of the State shall be issued to such company or companies, as hereinbefore prescribed. *Provided further*, that no company shall receive more than the amount per mile, hereinbefore prescribed. *And provided*, That the provisions of this act shall only extend to one of the lines of railroad proposed to be constructed by the Nashville and Northwestern Railroad Company, and the Nashville and Memphis Railroad Company, between Nashville and the Tennessee river, and the company first obtaining *bona fide* supscriptions, as provided in the first section of this act, made known to the Governor as therein prescribed, shall be entitled to the provisions of this act for the whole distance from Nashville to its terminus on the Mississippi river, and may cross the Tennessee river at any point between Ross' Ferry and a point one mile below White Oak Island. And the other company shall have power to connect their road with the one thus entitling itself to the provisions of this act for its whole distance, at any point they may select, and shall only be entitled to the provisions of this act from the point of connection to its terminus on the Mississippi river. *Provided also*, That if the Louisville and Nashville Railroad Company locate their road through Sumner county, by way of Gallatin, then the provisions of this act shall not extend to or embrace the Nashville and Cincinnati Railroad Company, and the charter granted to said last named company shall, in that event, be void. But should said road not be so located, and both companies desire to run their roads to Nashville, then the provisions of this act shall extend to the company first obtaining *bona fide* subscriptions, as provided in the first section of this act, made known to the Governor as therein prescribed, and the other company shall unite their road to the one so provided for, at some suitable point, at least ten miles north of Nashville, and the provisions of this act shall extend to said road only from the point of connection to the Kentucky state line. *Provided further*, That the bonds of the State shall not issue to the Louisville and Nashville Railroad Company, or to the Nashville and Cincinnati Railroad Company, as provided in this act, unless one of said companies shall agree to locate and extend its road across Cumberland river, at or convenient to Nashville or South Nashville, within ten years from the date of the passage of this act.

Sec. 16.—*Be it enacted*, That the Railroad Companies specified in this act and all other railroad companies hereinafter incorporated in this State, shall have power to construct their roads so as to cross each other if necessary, by the main trunks or branches, or to unite with each other, or with the branches thereof; and it shall be the duty of said companies, when required, to receive on their roads and branches, the full loaded freight cars from each other and the branches thereof, and transport the same to their destination, and return them, without charging for the transportation of the goods, wares, merchandise and produce therein, any greater rate of freight than they charge for similar goods, wares, merchandise and produce in their own cars. *Provided*, That said companies shall not be compelled to receive such cars on their roads, unless they are constructed with the same gauge, and are of equal strength with their own cars, of which the principal engineer on the road of which it is proposed to require said cars to be transported shall be the judge. *Provided*, That the bonds of the State proposed to be issued to the Memphis and Charleston Railroad Company under the provisions of this act, shall, in the event of their issuance to said company, be divided between the main trunk line, proposed to be constructed by said company, and the branch thereof, from the town of Moscow to the town of Somerville, in the county of Fayette, according to the respective lengths of said trunk line and said branch; and the lien of the State, as herein secured, shall continue upon said main line, and also upon said branch, until said bonds and interest are paid, as heretofore provided.

Sec. 17.—*Be it enacted*, That in all cases where bonds may be issued to any of said companies, as provided in this act, the State of Tennesee shall be entitled to two directors in each company, to be appointed by the Governor of the State, to which bonds may be issued.

Sec. 18.—*Be it enacted*, That when the Nashville and Chattanooga Railroad Company shall have completed twenty-five miles of their road, in addition to the eighty miles specified in the second section of the act, passed the 4th of February, 1848, chapter 169, then the Governor of the State shall endorse and guarantee, in the name and on behalf of the State of Tennesse, the bonds of said company to the amount of one hundred and seventy-five thousand dollars, and in like manner, when another section of twenty-five miles of said road shall have been completed, the Governor of the State, in the name and on behalf of the State, shall endorse and guarantee the bonds of said company to the additional amount of one hundred and seventy-five thousand dollars, and said bonds are to be endorsed and guaranteed in the same manner, and the same indemnity is to be furnished by said company for the protection of the State, and the like lien is to be given, and the same character of bonds are to be endorsed and guaranteed, as provided in the said act of the 4th of February, 1848.

SEC. 19. *Be it enacted* That the aid contemplated by the first section of this act, shall only be extended to one of the roads chartered under the names of the Nashville and Southern Railroad Company, and the Tennessee and Alabama Railroad Company. *Provided*, That the first one of said roads which shall secure the subscription of the capital stock for the construction of the same, shall be entitled to such aid. *Provided further*, That if the Nashville and Southern Railroad Company first obtain the stock in their railroad, as provided in the first section of this act, and shall construct their road to the Tennessee river, to the Mississippi State line, or to a point between the Tennessee river and the Missisipi State line, then the Tennessee and Alabama Railroad Company may construct their road from the Alabama State line to intersect with the Nashville and Southern Railroad, at such point as said company may select, and the provisions of this act shall extend to the Tennessee and Alabama Railroad from the Alabama State line to said point of intersection. But if the Tennessee and Alabama Railroad Company first obtain the stock in their railroad, as provided in the first section of this act, and construct their road to the Alabama line in the direction of Florence, then the Nashville and Southern Railroad Company may construct their railroad from the Tennessee river, the Mississippi State line, or any point between the Tennessee river and the Mississippi State line, so as to intersect the Tennessee and Alabama Railroad, at such point as the company may select, and the provisions of this act shall extend to said railroad from said point of intersection to the Tennessee river, the Mississippi State line, or to any point between the Tennessee river and the Mississippi State line. And the Nashville and Southern Railroad Company, and the Tennessee and Alabama Railroad Company shall have power tc unite or consolidate their stock if they deem it advisable, and upon such terms as the companies may agree upon. *Provided also*, That if the Memphis and Nashville Railroad Company shall not comply with the requirements of this act, and complete thirty miles of their road within four years; or if the Nashville and Northwestern Railroad Company shall, in like manner, fail to complete thirty miles of their road within four years, then the Tennessee Central Railroad Company shall have all the rights, powers, privileges and benefits intended to be given by this act to those companies respectively, under the same restrictions and limitations; but the said Tennessee Central Railroad Company shall be allowed two years longer time in which to prepare thirty miles of their road-bed for the reception of the iron rails, and may then receive the aid of the State, in the issuance of bonds for their benefit, as prescribed in this act. *Provided*, That this provision shall not preclude any subsequent Legislature from extending the time of four years in which to complete any section of thirty miles of said Nashville and Memphis, or Nashville and Northwestern Railroad. That each of said companies is hereby authorized and required to appoint an agent or agents to whom the bonds shall be delivered, and whose duty it shall be to control said bonds, and see that they are exclusively applied to the payment of the railroad iron and equipments, as provided for in this act, and for no other purposes whatever. And the said agent, before he receives the bonds of the State, shall give bond and security, to be approved by the Governor and payable to the State of Tennessee, for the application of the bonds, or the proceeds thereof, to the purposes aforesaid. *Provided*, That before any bonds, under the provisions of this act, shall be issued to any agent of any railroad contemplated by this act, the president of any such company shall first deposit in the office of the Secretary of State a full, true and accurate list of all the stockholders, with the sums subscribed by each and every stockholder.

SEC. 20. *Be it enacted*, That no road embraced in this act shall be entitled to State aid, unless it shall, within four years, complete at least one section of thirty miles, or the whole length of the road, if less than thirty miles long.

JORDAN STOKES,
Speaker of the House of Representatives,
M. R. HILL,
Speaker of the Senate.

MS. COPY OF THE ACT OF FEBRUARY 11, 1852, WITH A HISTORY OF ITS PASSAGE THROUGH THE LEGISLATURE, FROM ITS JOURNAL.

A BILL to authorize the Governor of the State to issue bonds of the State of Tennesse to the East Tennessee and Virginia Railroad Company, to aid in the building of bridges.

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That for the purpose of aiding the East Tennessee and Virginia Railroad Company in the construction of bridges on their said railroad, the Governor of the State is hereby authorized and required to issue *coupon* bonds of the State of Tennessee to said company to an amount not exceeding the sum of three hundred thousand dollars, bearing an interest of *six per centum per annum*, payable semi-annually at such place as the president of said company may designate, which bonds shall be payable in not less than thirty nor more than forty years after date, and at such place as said president may designate—but said bonds are to be issued as hereinafter provided.

SEC. 2. *Be it enacted*, That whenever it shall be made known to the Governor, to his satisfaction, by the president and directors of said company, that forty miles of said railroad have been put under contract, and that the work on the same is progressing to completion, and that said company has sufficient *bona fide* subscriptions to grade and put the necesasry culverts on said section of forty miles ready for the iron rails, which subscriptions shall be adjudged solvent and valid by the Board of Internal Improvements, then it shall be the duty of the Governor to issue to said company *coupon* bonds of the

State of Tennessee of the description aforesaid, to an amount not exceeding one hundred thousand dollars, to be expended on the bridges necessary to be constructed on the said section of forty miles, and in like manner when a second section of forty miles shall have been put under contract and the work thereon progressing, and said company has sufficient *bona fide* subscriptions to grade and put on the necessary culverts as aforesaid ready for the iron rails, which subscriptions shall be adjudged solvent and valid by the Board of Internal Improvements, and all of which facts shall be made known to the Governor in the manner aforesaid, to his satisfaction, then it shall be the duty of said Governor to issue to said company *coupon* bonds of the State of Tennessee of the description for an amount not exceeding one hundred thousand dollars, to be expended on the bridges necessary to be constructed on said section of forty miles; and a like provision with like restrictions and conditions in all respects is hereby made for an additional section of forty miles of said railroad, the fund to be used in the construction of the necessary bridges on said last named section.

SEC. 3. *Be it enacted*, That so soon as the bonds are issued for the first section of forty miles, as provided in the first section of this act, the said bonds shall, on the issuance thereof, constitute a lien upon all the stock of said company, upon the roadbed, masonry, bridges, and other property of said company, and the State shall be invested with such lien on and by virtue of the issuance of said bonds without a deed from the company, for the payment of said bonds and interest accruing thereon; and whenever the bonds are issued for either or both of the other sections of forty miles, as specified in the first section of this act, the State of Tennessee shall on and by virtue of the issuance of said bonds, be invested with a like lien or mortgage on said sections for the payment of said bonds and the interest thereon, including roadbed, masonry, bridges, on all of the said sections provided for in this act, and on all of the stock of said company, without a deed from the company, and said lien or mortgage shall have priority over all other claims against said company; and all liens created by the company after the issuance of the bonds for the first forty miles of said railroad shall be void as to the liens of the State of Tennessee hereby created, for the payment of the bonds issued under the provisions of this act and the accruing interest thereon, and the said liens of the State shall extend to and embrace the entire railroad, its superstructure and equipments after completed, and so continue until said bonds and interest thereon are paid off and discharged, and without a deed from the company.

SEC. 4. *Be it enacted*, That said company shall pay into the Bank of Tennesee at Nashville, at least ten days before the interest falls due upon said bonds from time to time, an amount sufficient to pay said interest as it falls due, or deposit in said bank at Nashville satisfactory evidence that the same has been paid or provided for by said company and should said company fail to comply with the provisions of this section of this act, or fail to pay said bonds when they fall due, then it shall the duty of the Governor of the State to cause such suit or suits to be instituted and such proceedings to be had against said company as will most speedily and effectually protect the interest of the State and secure the payment of said bonds or said interest; and the Court or Courts in which such suits are instituted shall make all such rules, orders and decrees therein as will best indemnify the State against any loss on account of the issuance of said bonds, by a sale of said road, equipments and other property of the company, or by ordering the road, rents, issues, profits and assets to be placed in the hands of a receiver or receivers or otherwise. [This section stricken out December 18th.]

SEC. 5. *Be it further enacted*, That the Legislature of this State shall have power to enact any law or laws that may hereafter be deemed necessary to protect the interest or credit of the State against loss or damage on account of the issuance of said bonds, and to provide for the speedy and interpayment by the company of said bonds and interest, not impairing the vested rights of the stockholders, and that, for that purpose and the purposes of notice of the existence of this act, the same is hereby declared to be a public law.

[*Endorsements on above Original Bill.*]

[107]

A Bill to authorize the Governor to issue bonds of the State, to aid the East Tennessee & Virginia Railroad Company *to build bridges on their road.*

Passed Ist Reading Nov. 5.

Ref'd Com. Int. Imp.

Com. Rep. this Bill in lieu adopted.

Passed 2 Read'g Nov. 28th.

Bill and Am'd't laid on table, made the special order for the 15th. Dec. 9th.

Pass'd 3 Read'g as amended. Dec. 19th.

Engrossed and transmitted. Dec. 31.

SEC. 6. *Be it further enacted,* That before the Governor shall issue any bonds under the provisions of this act, he shall require the Engineer of said company to examine the premises where said bridge or bridges are to be built and ascertain as near as he may be able, the cost of construction of such bridge or bridges with good materials and in a good and substantial manner, and report the same under oath to the Governor and it shall not be lawful for said Governor to issue bonds as aforesaid for a greater amount for the construction of such bridge or bridges than the sum specified in the report of said Engineer, and the provisions of this act shall only extend to and include a bridge across the Watauga river, two bridges across the Holston river and a bridge across Lick creek on the line of said road, and no bonds shall issue under this act unless upon the written affidavit of the President of said Company and a resolution of a majority of the Directors thereof, that said bonds when issued shall not be used for any other purpose than for procuring the means for the construction of said bridge or bridges and it shall not be lawful for said bonds to be used for any other purpose. *Provided*, the estimates of said Engineer shall include the masonry on the line of said road.

Houstons amend adopted.

Sec. 7. *Be it enacted*, That it shall be the duty of said Company to deposit in the Bank of Tennessee at Nashville, at least fifteen days before the interest becomes due, and from time to time upon said bonds issued as aforesaid, an amount sufficient to pay such interest, including exchange and necessary commissions, or satisfactory evidence that said interest has been paid or provided for, and if said Company fail to deposit said interest as aforesaid, at the time aforesaid, or furnish the evidence aforesaid, it shall be the duty of the Comptroller to report that fact to the Governor. and the Governor shall immediately appoint some suitable person or persons, at the expense of the Company, to take possession and control of said railroad, and all the assets thereof, and manage the same and receive the rents, issues, profits and dividends, thereof, whose duty it shall be give bond and security to the State of Tennessee, in such penalty as the Governor may require for the faithful discharge of his or their duty, as receiver or receivers—to receive said rents, issues, profits and dividends, and pay over the same under the direction of the Governor towards the liquidation of such unpaid interest. And if said Company fail or refuse to deliver up said road to the person or persons so appointed by the Governor, the said person so appointed shall report that fact to the Governor, who shall forthwith issue his warrant, directed to the Sheriffs of the counties through which said road shall run, commanding them to take possession of said roads, fixtures and equipments, and everything pertaining thereto, and place the said receiver in full and complete possession of the same, and said receiver so appointed, shall continue in the possession of said road, fixtures and equipments, and run the same and manage the entire road until a sufficient sum shal be realized, exclusive of the costs and expenses, incident to said proceedings, to pay off and charge the interest as aforesaid, due on said bonds, which being done, the receiver shall surrender said road and fixtures and equipment to said Company. The Comptroller shall from time to time settle the accounts with the receiver, and the balances shall be deposited in the Treasury of this State. The Comptroller is authorized, and it is made his duty upon his warrant to draw from the Treasury any sum of money necessary to meet the interest on such bonds, as may not be provided for by the Company, as provided for in this act, and the Comptroller shall report thereof to the General Assembly from time to time.

Guilds amendment in lieu of amedt by Wisener adopted Dec. 18.

SEC. 8. *Be it enacted*, That if said Company shall fail or refuse to pay any of said bonds when they fall due, it shall be the duty of the Governor to notify the Attorney General of the District in which is situated the place of business of said Company, of the fact, and thereupon, said Attorney General shall forthwith file a bill against said Company in the name of the State of Tennessee, in the Chancery or Circuit Court of the county in which is situated said place of business, setting forth the facts, and thereupon said court shall make all such orders and decrees in said cause as may be deemed necessary by the court to receive the payment of said bonds, with the interest thereon, and to indemnify the State of Tennessee against any loss on account of the issuance of said bonds, by ordering said railroad to be placed in the hands of a receiver, and ordering the sale of said road, and all the property and assets attached thereto or belonging to said Company, or in such other manner as the court may deem best for the interest of the State.

SEC. 9. *Be it enacted*, That at the end of five years after the completion of said road, said Company shall set apart one *per centum per annum* upon the amount of bonds issued to the company, and shall use the same in the purchase of bonds of the Ssate of Tennessee, which bonds the Company shall pay into the Treasury of the State, after assigning them to the Governor, and for which the Governor shall give said company a receipt, and as between the State and said company, the bonds so paid in shall be a credit on the bonds issued to the company. And said bonds so paid in and the interest accruing thereon, from time to time, shall be held and used by the State as a sinking fund, for the payment of the bonds issued to the company, and should said Company re-purchase any of the bonds isssued to it under the provisions of this act, they shall be a credit as aforesaid and cancelled, and should said company fail to comply with the provisions of this section, it shall be proceeded against, as provided in the fifth section of this act.

Guilds amendment, adopted.

SEC. 10. *Be it enacted*, That in the event any of the roads, fixtures, or property belonging to any of said roads, shall be sold under the provisions of this act, it shall be the duty of the Governor to appoint an agent for the State, who shall attend to said sale and protect the interest of the State, and shall if necessary to protect said interest buy in said road or property in the name of the State, and in case said agent shall purchase said road for the State, the Governor shall appoint a receiver, shall take possession of said road and property, and use the same as provided for in the 5th section of this act and said receiver shall settle with the Comptroller semi-annually, until the next meeting of the General Assembly.

Brabsons amendment adopted Dec. 18th.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foreging is a copy of House bill No. 107, as originally introduced in the House of Representatives of the 29th General Assembly of Tennessee, session of 1851–2, and amendments offered thereto and adopted, theori ginal of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my Official Signature, and, by order of the Governor, affied the Great Seal of the State of Tennessee, at the department in the city of Nashville, this 5th day of August, A. D., 1879.

[SEAL.]

CHAS. N. GIBBS,
Secretary of State.

WEDNESDAY MORNING, December 31, 1851.

The Senate met according to adjournment.

. . . .

A message from the House of Representatives, by Mr. Leuty, their Clerk.

Mr. SPEAKER:—The House of Representatives has passed on their third reading, House bill No. 107, to authorize the Governor to issue bonds of the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their road;

. . . .

AFTERNOON SESSION.

The Senate met according to adjournment.

. . . .

The following House Bills were taken up and passed their first reading in the Senate, viz: . .

House Bill No. 107 to authorize the Governor to issue the bonds of the State of Tennessee to aid the East Tennessee and Virginia Railroad Company to build bridges on their road.

On motion of Mr. Carriger, the rule was suspended, and said last named bill (No. 107) was referred to the Committee on Internal Improvements.

SATURDAY MORNING, January 3, 1852.

The Senate met according to adjournment.

. . . .

Mr. Deaderick, from the Committee on Internal Improvements, reported and recommended the passage of House Bill No. 107, entitled "A bill to authorize the Governor to issue bonds of the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their road," with an amendment of an additional section—which was adopted.

On motion of Mr. Carter, the bill and report were laid on the table.

. . . .

MONDAY, January 5, 1852.

The Senate met according to adjournment.

. . . .

AFTERNOON SESSION.

The Senate met according to adjournment.

. . . .

On motion of Mr. Carter, the Senate took up House Bill No. 107, entitled a bill to authorize the Governor to issue bonds of the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their road, and the bill passed its second reading by the following vote:

Ayes	16
Noes	9

Senators who voted in the affirmative, are:

Messrs. Ball, Carriger, Davis of Cannon, Deaderick, Doyle, Dunlap of Shelby, Fogg, Gillespie, McCammon, Osborne, Pavatt, Stark, Tedford, Wester, Whitfield and Mr. Speaker Hill.

In the negative:

Messrs. Anderson, Bradbury, Burrus, Carter, Cooke, Davis of Marshall, Dunlap of Henry, McClain and Rogers.

. . . .

Saturday Morning, January 10, 1852.

The Senate met according to adjournment.

. . . .

House Bill No. 107, entitled "A bill to authorize the Governor to issue bonds of the State, to aid the East Tennessee and Virginia Railroad Company to build bridges on their road, passed its third and last reading in the Senate by the following vote:

Ayes	15
Noes	6

Senators who voted in the affirmative, are:

Messrs. Ball, Bradbury, Carriger, Davis of Cannon, Deaderick, Doyle, Dunlap of Shelby, Fogg, Gillespie, McCammon, Osborne, Tedford, Wester, Whitfield and Mr. Speaker Hill.

In the negative:

Messrs. Anderson, Burrus, Davis of Marshall, Dunlap of Henry, McClain and Rogers.

(Mr. Carter was excused from voting, for the same reason as on Senate Bill No. 105.)

On motion of Mr. Deaderick, the rule was suspended and said bill was ordered to be forthwith transmitted to the House of Representatives, for their concurrence in the Senate's amendment to said bill.

. . . .

Friday Morning, January 16, 1852.

The Senate met according to adjournment.

. . . .

A message from the House of Representatives, by Mr. Leuty, their clerk:

Mr. Speaker:—The House has concurred in the Senate's amendments to the following House Bills, viz:

. . . .

House Bill No. 107, to authorize the Governor of the State to issue bonds of the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their road,

I, C. N. Gibbs, Secretary of the State of Tennessee, do hereby certify that the foregoing is a copy of the action of the Senate on House Bill No. 107, session of 1851–2, of the 29th General Assembly of Tennessee, the original of which is now of record in my office.

In testimony whereof, I have hereunto subscribed my Official Signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the city of Nashville, this 5th day of August, 1879.

[SEAL.]

CHAS. N. GIBBS,
Secretary of State.

Wednesday Morning, November 5th, 1851.

The House met pursuant to adjournment.

. . . .

Mr. Campbell, of Washington, introduced House Bill No. 107, "to authorize the Governor of the State to endorse the bonds of the E. Tenn. and Virginia Railroad Company to aid in the building of bridges," which was read the first time and passed, and on motion was referred to the Committee on Internal Improvements.

. . . .

Friday Morning, November 28th, 1851.

The House met pursuant to adjournment.

. . . .

Mr. Houston, Chairman of Committee on Internal Improvements, reported on Bill No. 107, "to authorize the Governor of the State to endorse the bonds of the E. T. and Virginia Railroad Company to aid in the building of bridges."

The committee offered a bill in lieu, and as amended, and recommended its passage as amended.

On motion the House adopted the bill in lieu of the original, and as amended, and the bill passed on its second reading.

Mr. Jackson then presented the following report, viz.;

The undersigned, a minority of the Committee of Internal Improvements, constrained by a sense of duty to their constituents, and by a wholesome regard for the public weal, to dissent from the report of the majority recommending the passage of the bill granting three hundred thousand dollars of extra aid to the East Tennessee and Virginia Railroad, ask leave most respectfully to present the following reasons for their dissent:

The State of Tennessee, from an overweening regard for her credit, has for years permitted her fear of debt to restrain the spirit of enterprise which has characterized many States of this Union. She has been too long torpid and indifferent to the objects of her true interest, but under the wholesome influence of the examples of her more spirited and enterprising sisters, by the arguments and persuasions of her most gifted sons, and by the sober second thought of her yeomanry, she is at length aroused, and through the messages of the late and present Governor, declares to us that she is now disposed to see her Legislature devise and adopt a liberal and judicious system of internal improvements, and that she is disposed, when individual means and enterprise have gone ahead and prepared the local work of important lines of railway passing through her territory, enhancing the value of her soil, swelling her revenue and contributing to the comfort and prosperity of her citizens, as a generous sovereign enjoying the eminent domain of this fruitful land, loan her credit to enable such companies to iron, equip and set to immediate and profitable work the various important roads which may be deemed by legislative sagacity and prudence worthy of such aid, and by their prospect of profit and proposed mortgages will secure the State against liability to loss. Acting upon this as a governing principle, the undersigned, with a full appreciation of the East Tennessee and Virginia Railroad as one of our great projected thoroughfares eminently worthy to be included in the provisions of a general bill, have been unwilling to favor this or any other application for extra aid outside of that contemplated for important lines which may be embraced in the general bill. For 'tis the local work done by individual means and enterprise in the preparation of the road-bed for the reception of iron and equipments that constitutes the basis of security for the advancement of State aid, and if the means of the State are to be asked and obtained to assist in this preliminary work, the security is lessened, and for this reason the example should be avoided.

The majority of this committee who recommend this measure to the House, with the exception of two members, are from that division of the State which feels naturally the deepest interest in this important work, and in the exercise of a very common and excusable partiality for home interests, have urged this proposition with great zeal and assiduity before the committee, and it may be anticipated that the representatives of other sectional interests, encouraged by the success of this precedent and indulging a like desire to gratify their constituents, will apply for similar bounties, when these various applications for special aid are footed up with the liabilities contemplated in the general bill, the undersign fear that the sum total will excite fearful apprehensions in the minds of sanguine and ardent friends of internal improvements, and will furnish the opposition with a most potent and formidable weapon of attack. The undersigned, actuted by the kindest feeling for the East Tennessee works, and with an eye steadily directed to the paramount importance of devising a judicious system which will be readily endorsed and sustained by the great mass of the State, would most respectfully ask the House to ponder well before sanctioning this measure.

All of which is respectfully submitted by

ALEXANDER JACKSON,
G. C. HURT,
J. D. C. ATKINS,
M. B. KING,
L. POPE,
E. A. FERGUSON.

November 26th, 1851.

Willie, Woodard and Winchester, who were absent when the vote was taken, concurs with the above signers.

. . . .

MONDAY MORNING, December 8th, 1851.

The House met pursuant to adjournment.

. . . .

AFTERNOON SESSION.

. . . .

Bill No. 107, to authorize the Governor to issue bonds of the State to aid the E. T. and Virginia Railroad to build bridges on their road.

Pending the passage of the bill, on motion, the House adjourned until to-morrow morning, nine o'clock.

TUESDAY MORNING, December 9, 1851.

The House met pursuant to adjournment.

. . . .

The House then took up the unfinished business, being House bill No. 107, to authorize the Governor to issue bonds of the State to aid the E. T. and Virginia Railroad Company to build bridges on their road.

Mr. Houston offered to amend said bill by adding an additional section, sixth.

Pending the question on the adoption of the amendment, on motion, the House took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The House proceeded with the unfinished business of the morning session.

On motion of Mr. Hubbard, the bill and amendments was laid on the table, and made the special order of the day for the 16th instant.

. . . .

TUESDAY MORNING, December 16, 1851.

The House met pursuant to adjournment.

. . . .

Bill No. 107, to authorize the Governor to issue bonds of the State to aid the East Tennesssee and Virginia Railroad Company to build bridges on the raod, being the special order of the day, was taken up, and on motion, the amendment of an additional section by Mr. Houseton was adopted.

Mr. Jackson offered to amend said bill by adding the following proviso, viz:

Provided that the bonds of the State shall not be issued to build the bridges herein provided for until there is stock subscribed by good and solvent individuals, corporations, companies, or counties, sufficient to grade the road and put the same from Knoxville to the Virginia State line, which facts shall be certified to the Governor of the State, by written affidavit of the President and Directors of said road.

Which amendment was adopted.

Mr. Davis moved to lay the amendment on the table.

The ayes and noes being demanded.

Affiamative voters:

Messrs. Arledge, Baines, Bowles, Campbell of Williamson, Davis, Farquharson, Hamilton, Hardeman, Hardin, Hendrick, Hurt, Jackson, King, McDaniel, Woody, Mosby, Sheid, Sherrill, Simpson of Humphreys, Thomson, Whittaker and Winchester—22.

Negative voters:

Messrs. Anderson, Atkins, Barry, Battle, Bentley, Brabson, Bugg, Bratton, Bullen, Campbell of Washington, Cooke, Currin, Dean, Duggan, Ferguson, Fowler, Gore, Greer, Guild, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Kimble, Kincaid, Mabry, Martin, McClary, McDuffie, Morris, Murphy, Netherland, Palmer, Parker, Polk, Phillips, Ray, Richardson, Senter, Shaw, Stephens, Stuart, Stokes of DeKalb, Telford, Wisener Woodard and Mr. Speaker Stokes—48.

So the House refused to lay the bill on the table.

Mr. Wisener offered to amend said bill by adding an additionol section.

Pending the question on the adoption of the amendment, on motion, the House took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The House proceeded with the unfinished business of the morning session, and pending the consideration of the amendment offered by Mr. Wisener, on motion, the House adjourned until to-morrow morning 9 o'clock.

WEDNESDAY MORNING, December 17, 1851.

The House met pursuant to adjournment.

. . . .

On motion, the House then took up the unfinished business of yesterday, being House bill No. 107, to authorize the Governor to issue bonds of the State to aid the E. T. & Virginia Railroad Company to build bridges on their road.

Pending the consideration of which the House took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

. . . .

The House then resumed the unfinished business of the morning session, being House Bill No. 107, etc. And pending the consideration of which, on motion, the House adjourned until to-morrow morning, 9 o'clock.

THURSDAY MORNING, Dec. [illegible] 1851.

The House met pursuant to adjournment.

. . . . .

On motion, the House resumed the unfinished business of yesterday, being House bill No. 107, to authorize the Governor to issue bonds of the State to aid the E. T. & Virginia Railroad Company to build bridges on their road.

Mr. Guild offered an amendment in lien of the section offered by Mr. Wisener, and the 4th section in said bill, which amendment was adopted.

Mr. Guild moved to amend said bill by adding sections 8 and 9 to said bill, which amendment was adopted.

Mr. Brabson offered to amend said bill by adding the 10th section, which amendment was adopted.

Mr. Davis offered to amend said bill as follows, viz: Add—

SEC. — *Be it further enacted*, That before the Governor shall issue any bonds as provided in this act, said company shall through and by means of a certificate from the President of Board of Directors of said company inform the Governor that the said company agree that a re-survey of said railroad shall be made between the Virginia line and Bull's Gap by an engineer appointed by the Governor, and that the location of said road shall be made upon the route that such engineer may determine to be the nearest practicable route, taking into consideration the interest of the people. And upon the Governor being informed that said company agree to a re-survey as hereinbefore provided, he is hereby authorized to appoint an engineer or engineers, to make said re-survey, which engineer or engineers shall as soon as practicable make said re-survey and locate the same the nearest practicable route, taking into consideration the interest of the people, which location shall be made under oath of the engineer or engineers appointed by the Governor and be final. *Provided*, that the engineer or engineers appointed by the Governor as aforesaid, shall not be any person who has had anything to do with any survey heretofore made upon said road or has any interest in any way in connection with said road.

SEC. — *Be it further enacted*, That said railroad company shall have the further time of two years from the passage of this act to comply with the provisions of the charter of said company, which charter is hereby declared to be to all intents and purposes in full force and virtue and for all purposes as valid as though the number of twenty-five thousand shares had been *bona fide* taken before the first day of January, 1850, as well as if the said company had complied with the provisions of said charter in every particular requirement as herein provided.

Mr. Campbell, of Washington, moved to lay the said amendment on the table.

Mr. Davis demanded the ayes and noes thereon.

Affirmative voters:

Messrs. Anderson, Atkins, Bains, Barry, Bate, Battle, Bentley, Brabson, Bugg, Bratton, Bullen, Campbell of Washington, Campbell of Williamson, Cooke, Curran, Duggan, Ferguson, Fowler, Gore, Guild, Havron, Hendrick, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Hurt, Jackson, Kimble, Kincaid, King, Mabry, Martin, McClary, McDuffie, Morris, Mosby, Murphy, Netherland, Parker, Polk, Phillips, Pope, Ray, Senter, Simpson of Fentress, Stephens, Telford, Thompson, Winchester and Woodard—52.

Negative votes:

Messrs. Arledge, Bowles, Davis, Dean, Greer, Hamilton, Hardin, McDaniel, Moody, Palmer, Richardson, Shaw, Sheid, Sherrill, Simpson of Humphreys, Stuart, Stokes of DeKalb, Whitaker, Wisener and Mr. Speaker Stokes—20.

So the amendment was laid on the table.

Mr. Guild offered to amend said bill by inserting after the word "Improvements" at the end of the fifth line from the bottom on first page to sec. 2, the words "or any chief engineer or other persons appointed to examine and report upon works of Internal Improvement."

Which amendment was adopted.

Mr. Pope offered to amend said bill by adding the following:

"Sec. — *Be it enacted*, That bonds of the State shall not issue to said company, unless the bonds of the State shall be loaned to the company for the purpose of purchasing the iron and equipments for said road."

Mr. Hubbard moved to lay the amendments offered by Mr. Pope on the table.

And pending the question on the motion made by Mr. Hubbard the House took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The House resumed the unfinished business of the morning session.

The ayes and noes being demanded on the question to lay the amendment offered by Mr. Pope on the table.

Affirmative voters:

Messrs. Anderson, Barry, Bate, Battle, Brabson, Bugg, Bullen, Campbell of Washington, Cooke, Currin, Dean, Duggan, Ferguson, Fowler, Gore, Greer, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Kimble, Kincaid, Mabry, Martin, McClary, McDuffie, Murphy, Netherland, Parker, Polk, Senter, Simpson of Fentress, Stephens, Stuart, Telford and Wisener—37.

Negative voters:

Messrs. Arledge, Atkins, Bains, Bentley, Bowles, Bratton, Campbell of Williamson, Davis, Guild, Hamilton, Hardeman, Hardin, Hendrick, Hurt, Jackson, King, McDaniel, Moody, Mosby, Palmer, Phillips, Pope, Ray, Richardson, Shaw, Sheid, Sherrill, Simpson of Humphreys, Stokes of DeKalb, Thompson, Whitaker, Winchester, Woodard and Mr. Speaker Stokes—34.

So the amendment was laid on the table.

Mr. Mosby offered the following amendment as a proviso to said bill:

Provided, That the Nashville and Northwestern Railroad, The Nashville and Memphis Railroad, The Nashville and Louisville Road, The Memphis and Charleston Road, The Mobile and Ohio Road, The Nashville and Southwestern Road, and every other road mentioned in the General Railroad Bill reported to the House by the Internal Improvement Committee, shall receive the same amount of State aid upon the same terms and conditions as is herein proposed to extend to the East Tennessee and Virginia Railroad.

Pending the question on the adoption of the amendment, on motion the House adjourned until to-morrow morning, 9 o'clock.

FRIDAY MORNING, Dec. 19, 1851.

The house met pursuant to adjournment.

. . . . .

The House then resumed the unfinished business on the adjournment of yesterday, being House bill No. 107, to authorize the Governor to issue bonds of the State to aid the E. T. and Virginia Railroad Company to build bridges on their road.

And pending the further consideration of which the House took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The House resumed the business of the morning session, the amendment offered by Mr. Mosby pending.

Mr. Thompson called for the previous question.

And the House sustained the call, and the bill as amended on its third reading was rejected.

Ayes..............................34
Noes..............................35

Being constitutionally required.

Affirmative voters:

Messrs. Anderson, Bate, Battle, Bently, Brabson, Bugg, Bullen, Campbell of Washington, Cooke, Currin, Duggan, Ferguson, Fowler, Greer, Guild, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Kimble, Kincaid, Mabry, Martin, McClary, McDuffie, Murphy, Netherland, Polk, Senter, Sherrill, Stephens, Stuart, and Telford—34.

Negative voters:

Messrs. Arledge, Bains, Barry, Bowles, Bratton, Campell of Williamson, Davis, Dean, Farquharson, Gore, Hamilton, Hardeman, Hardin, Hendrick, Hurt, Jackson, King, McDaniel, Moody, Morris, Mosby, Palmer, Parker, Phillips, Ray, Richardson, Shaw, Sheid, Simpson of Fentress, Stokes of DeKalb, Thompson, Whitaker, Winchester, Woodard, and Mr. Speaker Stokes—35.

Mr. Campbell of Williamson moved a reconsideration of the vote rejecting said bill, which motion was seconded.

Mr. Mosby moved an adjournment until to-morrow morning 9 o'clock.

Mr. Duggan demanded the ayes and noes thereon.

Affirmative voters:

Messrs. Arledge, Bains, Farquharson, Guild, Hardeman, Hardin, Hendrick, Jackson, McDaniel, Mosby, Ray, and Shaw—12.

Negative voters:

Messrs. Anderson, Barry, Bate, Battle, Bentley, Bowles, Brabson, Bugg, Bratton, Bullen, Campbell of Washington, Campbell of Williamson, Cooke, Currin, Davis, Duggan, Ferguson, Fowler, Gore, Greer, Hamilton, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Hurt, Kimble, Kincaid, King, Mabry, Martin, McClary, McDuffie, Moody, Morris, Murphy, Netherland, Palmer, Parker, Polk, Phillips, Richardson, Senter, Sheid, Sherrill, Simpson of Fentress, Stephens, Stuart, Stokes of DeKalb, Telford, Thompson, Whitaker, Woodard, and Mr. Speaker Stokes—55.

So the House refused to adjourn.

On the motion to reconder the vote rejecting said bill, the ayes and noes being demanded.

Affirmative voters:

Messrs. Anderson, Bate, Battle, Bentley, Bowles, Brabson, Bugg, Bullen, Campbell of Washington, Campbell of Williamson, Cook, Currin, Duggan, Ferguson, Fowler, Greer, Guild, Havron, Henry of Bradlry, Henry of Montgomery, Houston, Hubbard, Hurt, Kimble, Kincaid, King, Mawbry, Martin, McClary, McDuffie, Morris, Murphy, Netherland, Polk, Senter, Sherrill, Stephens, Stuart, Telford, Wisener, and Woodard—41.

Negative voters:

Messrs. Arledge, Bains, Barry, Bratton, Davis, Dean, Farquharson, Gore. Hamilton, Hardeman, Hardin, Hendrick, Jackson, McDaniel, Moody, Mosby, Palmer, Parker, Phillips, Ray, Richardson, Shaw, Sheid, Simpson of Fentress, Stokes of DeKalb, Thompson, Whitaker, Winchester, and Mr. Speaker Stokes—29.

So the vote was considered.

Mr. Wisener moved to refer the bill as amended to the Committee on Internal Improvements, with instructions so to amend the same as to authorize the company to issue their bonds for the amount authorized by this bill, and the Governor to endorse and guarantee the payment of the same on the part of the State, with the like restrictions, securities, liabilities, and guarantees for indemnity as are provided in said bill for the payment of the bonds and interest thereon authorized to be issued by said bill.

Mr. Thompson moved to lay the motion made by Mr. Wisener on the table.

The ayes and noes being demanded.

Affirmative voters:

Messrs. Anderson, Bate, Battle, Bentley, Brabson, Bugg, Bullen, Campbell of Washington, Campbell of Williamson, Cooke, Currin, Duggan, Ferguson, Fowler, Greer, Guild, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Kimble, Kincaid, Mabry, Martin, McClary, McDuffie, Morris, Murphy, Netherland, Polk, Senter, Sherrill, Stephens, Stuart, Telford, Thompson, and Woodard—38.

Negative voters:

Messrs. Arledge, Bains, Barry, Bowles, Bratton, Davis, Dean, Farquharson, Gore. Hamilton, Hardeman, Hardin, Hendrick, Hurt, Jackson, King, McDaniel, Moody, Mosby, Palmer, Parker, Phillips, Ray, Richardson, Shaw, Shied, Simpson of Fentress, Stokes of DeKalb, Whitaker, Winchester, Wisener, and Mr. Speaker Stokes—32.

So the motion was laid on the table.

Mr. Mosby moved that the House stand adjourned until to-morrow morning, 9 o'clock, which motion was rejected.

Mr. Farquharson offered to amend said bill by adding the following.

SEC. —. *Be it enacted*, That before this act shall take effect, or be in force in any way whatever, the Governor, by proclamation, shall appoint an election to be holden in every county in this State, at which election the question shall be for or against the special appropriation herein authorized, and the Governor and all other public functionaries shall be governed in their proceedings under this act by the will of the majority, so expressed, of the qualified voters in such election.

Mr. Cook called for the previous question, and on the question "shall the main question be now put."

Mr. Farquharson demanded the ayes and noes.

Affirmative voters:

Messrs. Anderson, Bate, Battle, Bentley, Brabson, Bugg, Bullen, Campbell of Washington, Campbell of Williamson, Cook, Curran, Duggan, Ferguson, Fowler, Greer, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Kimble, Kincaid, Mabry, Martin, McClary, McDuffie, Morris, Murphy, Netherland, Polk, Senter, Sherrill, Stephens, Stuart, Telford, Wisener, and Woodard—37.

Negative voters:

Messrs. Arledge, Bains, Barry, Bowles, Bratton, Davis, Dean, Farquharson, Gore, Guild, Hamilton, Hardeman, Hardin, Hendrick, Hurt, Jackson, King, McDaniel, Moody, Mosby, Palmer, Parker, Phillips, Ray, Richardson, Shaw, Sheid, Simpson of Fentress, Stokes of DeKalb, Thompson, Whitaker and Mr. Speaker Stokes—32.

So the house sustained the call.

Mr. Shaw moved the House stand adjourned until to-morrow morning 9 o'clock.

Mr. Kincaid demanded the ayes and noes thereon.

Affirmative voters:

Messrs. Arledge, Bains, Barry, Bowles, Bratton, Davis, Farquharson, Gore, Guild, Hamilton, Hardin, Hurt, McDaniel, Moody, Mosby, Parker, Phillips, Ray, Shaw, Sheid, Sherrill, Simpson of Fentress, Stokes of DeKalb, Thompson, Whitaker and Winchester—26.

Negative voters:

Messrs. Anderson, Bate, Battle, Bentley, Brabson, Bugg, Bullen, Campbell of Washington, Campbell of Williamson, Cooke, Currin, Dean, Duggan, Ferguson, Fowler, Greer, Hardeman, Havron, Hendrick, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Jackson, Kimble, Kincaid, King, Mabry, Martin, McClary, McDuffie, Morris, Murphy, Netherland, Palmer, Polk, Richardson, Senter, Stephens, Stuart, Telford, Wisener, Woodard, and Mr. Speaker Stokes—44.

So the House refused to adjourn.

The main question was then put, and the bill as amended passed on its third and last reading.

Ayes	38
Noes	32

Being constitutionally required.

Affirmative voters:

Messrs. Anderson, Bate, Battle, Bentley, Brabson, Bugg, Bullen, Campbell of Washington, Campbell, of Williamson, Cooke, Currin, Dean, Duggan, Ferguson, Fowler, Gore, Greer, Guild, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Kimble, Kincaid, Mabry, Martin, McClary, McDuffie, Murphy, Netherland, Polk, Senter, Sherrill, Stephens, Stuart, Telford, and Wisener—38.

Negative voters:

Messrs. Arledge, Bains, Barry, Bowles, Bratton, Davis, Farquharson, Hamilton, Hardeman, Hardin, Hendrick, Hurt, Jackson, King, McDaniel, Moody, Morris, Mosby, Palmer, Parker, Phillips, Ray, Richardson, Shaw, Sheid, Simpson of Fentress, Stokes of DeKalb, Thompson, Whitaker, Winchester, Woodard, and Mr. Speaker Stokes—32.

. . . .

WEDNESDAY MORNING, Dec. 31, 1851.

The House met pursuant to adjournment—

. . . .

Mr. Hardeman, Ch. of Committee on Enrolled Bills, reported:

That the Committee had examined House Bill No. 107, To authorise the Governor to issue bonds of the State to aid the E. T. and Virginia Railroad Company to build bridges on their road.

. . . .

MONDAY MORNING, January 12th, 1852.

The House met pursuant to adjournment.

. . . .

Message from the Senate, No. 82, by Mr. Harrison, their Clerk:

Mr. Speaker:

The Senate has passed on its third reading,

. . . .

Also House Bill No. 107, Entitled, a bill to authorize the Governor to issue bonds of the State to aid the East Tennessee and Virginia Railroad Company to build bridges on their road.

After amending the fifth section of the bill with an amendment herewith transmitted.

And the bill is herewith transmitted for the concurrence of the House and for enrollment.

. . . .

THURSDAY MORNING, January 15th, 1852.

The House met pursuant to adjournment.

. . . .

Message No. 82, transmitting House Bill No. 107, To authorize the Governor to issue bonds of the State to aid the E. T. and Virginia Railroad Company to build bridges on their road, with an amendment to the 5th section.

Which amendment was concurred in by the House.

Ayes	47
Noes	20

The ayes and noes being demanded by Mr. Farquharson.

Affirmative voters:

Messrs. Anderson, Atkins, Baines, Bate, Battle, Brabson, Bratton, Bullen, Campbell of Washington, Campbell of Williamson, Cooke, Currin, Davis, Duggan, Ferguson, Fowler, Gore, Greer, Guild, Havron, Henry of Bradley, Henry of Montgomery, Houston, Hubbard, Kimble, Kincaid, King, Mabry, Martin, McClary, McDuffie, Murphy, Netherland, Parker, Polk, Pope, Ray, Richardson, Senter, Sherrill, Simpson of Fentress, Stephens, Stuart, Stokes of DeKalb, Telford, Thompson and Woodard—47.

Negative voters:

Messrs. Arledge, Barry, Bentley, Bowles, Dean, Farquharson, Hamilton, Hardeman, Hardin, Hendrick, Hurt, McDaniel, Meeks, Moody, Morris, Mosby, Phillips, Sheid, Simpson of Humphreys and Whitaker—20.

I, C. N. Gibbs, Secretary of State of the State of Tennessee, do certify that the foregoing is a copy of the action of the House on House Bill No. 107, session of 1851-2 of the 29th General Assembly of Tennessee, the original of which is now of record in my office.

In Testimony Whereof, I have hereunto subscribed my official Signature; and, by order of the Governor, affixed the Great Seal of the State of Tennessee, at the Department in the City of Nashville, this 5th day of August, A. D. 1879.

[SEAL.]

CHAS. N. GIBBS,
Secretary of State.

ACTS 1851-2, CH. 153, P. 220, PASSED FEBRUARY 21, 1852.

AN ACT to authorize the renewal of certain bonds of the State of Tennessee.

SEC. 7. *Be it further enacted*, That the different internal improvement companies to whom the bonds of the State may be lent under the different acts of the present legislature, shall pay the expense of engraving and preparing the same.

SEC. 8. *Be it enacted*, That the Governor of the State shall cause to be engraved or printed, the bonds which may be issued under the acts of the present General Assembly as a loan to internal improvement companies, and the said bonds shall bear date on the first day of January, prior to their issuance, and the coupons thereto shall be payable on the first days of January and July, of each year.

SEC. 9. *Be it enacted*, That the coupons shall be signed and numbered by the Comptroller, and the bonds shall be countersigned, sealed and numbered by the Secretary of State, and upon delivering said bonds to the company authorized to receive the same, the Secretary of State shall take a receipt, reciting the number, date and amount of said bonds in a well bound book to be deposited in his office, and the Comptroller and Secretary of State shall each be entitled to receive twenty-five cents for each bond so prepared, to be paid by the party receiving said bonds.

CODE OF TENNESSEE, ADOPTED 1857-8, P. 121.

209. The Comptroller shall keep a book properly ruled for the purpose, in which he shall register the number and date of every bond of the State hereto-

fore issued, or which shall be hereafter issued, under proper heads, showing for what purpose and to whom issued.

210. Opposite to the number and date of the bond, and on the same or subsequent pages, he shall have as many columns as there are coupons attached, with headings to each column, showing the date at which the coupons fall due; and, in said columns, he shall mark every coupon as paid, as soon as the warrant issues therefor.

211. Said book shall further show the final payment of the bond.

212. Whenever the Comptroller issues his warrant for any coupon, he shall write across the face of the same the number of the warrant issued for its payment; and opposite to said coupon when entered in the book, the date and number of the warrant issued for its payment, the name of the person presenting it, and to whom the warrant is issued.

CODE OF TENNESSEE, ADOPTED 1857-8, PP. 114, 115.

194. A Secretary of State shall be appointed by joint vote of the General Assembly, and commissioned during the term of four years.

197. It shall be the duty of the Secretary of State—

18. To register in a book to be kept in his office for the purpose, all the bonds of the State paid and cancelled, showing the date, number, amount, and time and place of payment of each bond, and to whom issued and paid.

19. And when said bonds have been thus registered, the same shall be, by the Governor, Comptroller, Treasurer, and Secretary of State, or any

three of them, burned, and the fact certified upon said registry by the officers witnessing the same.

ACTS 1851-2, CH. 224, P. 336, PASSED FEB. 26, 1852.

AN ACT to charter the Chattanooga, Blue Spring and Cleveland Railroad Company, and for other purposes.

SEC. 5. *Be it enacted*, That the act passed by the present General Assembly, entitled "an act to aid in the completion of the East Tennessee and Georgia railroad," be so amended, that the provision of said act be made to extend to the abutments and embankments connected with said bridge, and also, be so amended, that upon the certificate of the engineer, that one-fourth of the work in value on said bridge, has been completed according to contract, it shall be the duty of the Governor to issue $20,000 of said bonds to said company, and upon a like certificate that one-half of said work has been completed the Governor shall issue another $20,000 of said bonds, and upon a like certificate that three-fourths of said work has been completed, the Governor shall issue another $20,000 of said bonds, and upon a like certificate that the whole of said work has been fully completed, the Governor shall issue the remainder of said bonds, but in no event shall more than $100,000 in bonds be issued for said work.

SEC. 6. *Be it further enacted*, That said East Tennessee and Georgia Railroad Company shall procure *bona fide* good and solvent subscriptions, in amount sufficient to grade, prepare the timbers, and prepare the whole line of road proposed to be constructed, ready for the recption of the iron, and these facts shall be certified to the Governor by the written affidavit of the President and Chief Engineer, and also by a majority of the directors before the Governor shall issue the bonds provided for in this act.

ACTS OF 1853-4, CH. 131, P. 205. PASSED FEB. 8, 1854.

AN ACT to amend an act passed 11th February, 1852, entitled "An Act to establish a system of Internal Improvements in this State."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the bonds of the State shall issue to the companies mentioned in the first and tenth and nineteenth sections of the act which this is intended to amend, and also to the "Edgefield and Kentucky Railroad Company," "Central Southern Railroad Company," "Knoxville and Charleston Railroad Company," Mississippi Central and Tennessee Railroad Company," "Knoxville and Kentucky Railroad Company," "Tennessee, Western and Charleston Railroad Company" and "Cincinnati, Cumberland Gap and Charleston Railroad Company," upon the terms and conditions mentioned in the act which this is intended to amend, but to the extent of ten thousand dollars (instead of eight thousand) per mile. *Provided*, that the aid of the State shall be extended to the South Carolina, Tennessee and Kentucky Railroad Company, in lieu of the Knoxville and Charleston Railroad Company to the extent of fifty-five miles and no more, in the event the Blue Ridge Railroad Company of South Carolina shall adopt the charter of said South Carolina and Tennessee and Kentucky Railroad Company, and obligate themselves in such manner as shall be satisfactory to the Governor, not to stop the construction of the said road at a junction with the East Tennessee and Georgia Railroad, but to build said road to South West Point; and said South Carolina Tennessee and Kentucky Railroad Company, before it shall receive the aid herein provided, shall bring itself within the general provisions in all respects of the act which this is intended to amend. But should the Blue Ridge Railroad Company not adopt such charter and enter into the obligations aforesaid, then the provisions of this act and that which it is intended to amend, shall apply in all thing to the Knoxville and Charleston Railroad Company.

SEC. 2. *Be it further enacted*, That the bonds of the State shall issue to the companies mentioned in the first section of this act, and the tenth and nineteenth sections of that which this is intended to amend, for each bridge the said companies, or either of them, may have to build in East, Middle and West Tennessee, across the Holston, Clinch, Big Hatchie, Tennessee and Cumberland Rivers, for the maximum sum that bonds are provided to be issued to said East Tennessee and Georgia Railroad Company, by an act passed February 4, 1852, entitled "an act to aid in the completion of the East Tennessee and Georgia Railroad," and upon the terms and conditions mentioned in said act (except the second section), and also in the fifth and sixth sections of an act passed February 26th, 1852, entitled "an act to charter the Chattanooga, Blue Spring and Cleveland Railroad Company, and for other purposes," and said bonds to be issued under this section shall be included in the aggregate amount of stock raised by said companies in the same manner that the three hundred thousand dollars of bonds loaned to the East Tennessee and Virginia Railroad Company under an act passed January 15th, 1852, to enable said company to build bridges, are provided to be included in the aggregate amount of stock to be raised by the East Tennessee and Virginia Railroad Company.

SEC. 3. *Be it further enacted*, That the office of "commissioner of roads" be filled by the appointment of the Governor; that the incumbent shall hold his office for two years, and shall receive an annual salary of two thousand dollars. It shall be his duty to examine into the condition of railroad companies applying for the bonds of the State, and to report on oath to the Governor the condition of said roads and the companies owning them; enquiring into, and reporting all the facts necessary to be reported upon under this act, and that which this is intended to amend. He shall further superintend and supervise the interest of the State in all the railroads and turnpike roads of this State, and whenever he may deem it necessary report to the Governor any facts he may believe to be of importance to said interest. The said commissioner, in making his investigations, shall have the power to administer oaths, and send for persons and papers; and may, if in the opinion of the Governor it should be necessary and proper, apply to the courts for aid to protect said interests; and it shall not be lawful for the Governor to issue such bonds to any railroad company until he shall be satisfied they have complied with the law.

SEC. 4. *Be it enacted*, That if any officer, agent or servant of any railroad company receiving the bonds of the State, shall appropriate said bonds or the money arising from the sale thereof, or any portion of either, to any other use than that prescribed in the act under which said bonds shall be issued, such person or persons so offending, shall be deemed guilty of a felony, and upon conviction shall undergo confinement in the penitentiary for a period of not less than five nor more than fifteen years.

Sec. 5. *Be it enacted*, That no road embraced in this act shall be entitled to its provisions, unless it shall, within four years, grade one section of thirty miles.

Sec. 6. *Be it enacted*, That the Governor shall endorse and guarantee the bonds of the Nashville and Chattanooga Railroad Company to an amount not exceeding six hundred and fifty thousand dollars, and the State shall thereupon, by virtue of this act, be invested with a lien upon the entire road of said company, with all its equipments, fixtures, &c., and shall have the same remedies for enforcing said lien as are given by previous acts of the General Assembly directing an endorsement of the bonds of said company. The provisions of this act shall extend to all railroad companies mentioned in the aforesaid act, passed 11th February, 1852, whose charters, routes or names have been, or may hereafter be changed; and if any two or more of said companies shall be consolidated, they or the consolidated companies shall be entitled to the provisions of this act.

Sec. 7. *Be it further enacted*, That the Mississippi Central and Tennessee Railroad Company shall be entitled to the provisions of this act from Jackson, Tennessee, to the Tennessee river, for any extension of said road, which said company may make from Jackson by way of Huntingdon in the direction of Nashville. And, *provided further*, that nothing in this act shall be so construed as to extend the time for the completion of the first section of the roads mentioned in the said act of the 11th February, 1852.

Sec. 8. *Be it enacted*, That the bonds to be issued under the provisions of this act shall, in no case, be sold at less than par.

Sec. 9. *Be it further enacted*, That the first section of an act passed February 11th, 1852, entitled "an act to establish a system of internal improvements in this State," be so amended that whenever the East Tennessee and Virginia Railroad Company shall have graded, and shall have ready to put down the necessary timbers for the reception of rails, as is contemplated in said section, from Knoxville to the Holston river at Magbie's ferry, or to the Holston river at Middletown, at each end, it shall be the duty of the Governor to issue bonds of the State to the company, as is required in said section, and when said company shall have complied with the above requisitions it shall be considered as fulfilling the requirements in full, of the first section of the act above referred to.

Sec. 10 *Be it enacted*, That the provisions of this act shall extend to and embrace the Mississippi and Tennessee Railroad Company, chartered 5th December, 1853, and the State aid given to other roads by this act, shall be given in like manner to the said Mississippi and Tennessee Railroad, so far as the same lies in the State of Tennessee.

Sec. 11. *Be it enacted*, That the farther time of two years is hereby extended to the Southwestern Railroad Company, to bring themselves within the provisions of the act entitled "an act to establish a system of internal improvements in this State."

Sec. 12. *Be it further enacted*, That this act shall take effect from and after its passage.

WM. H. WISENER,
Speaker of the House of Representatives.
EDWIN POLK,
Speaker of the Senate.

ACTS OF 1853-4, CH. 225, P. 396. PASSED FEB. 17, 1854.

AN ACT to amend the Charter of the Memphis and Sommerville Turnpike Company, and for other purposes.

SEC. 5. *Be it enacted*, That the 4th section of an act to establish a system of Internal Improvements in this State, be amended by striking out the word *twenty*, wherever it occurs in said section, and inserting the worn *ten*, so as to allow all the railroad companies entitled to the benefits of said act, and an act passed February the 8th, 1854, as an amendment thereto, to obtain the bonds of the State upon sections of *ten* miles instead of *twenty* miles, after the 1st section of thirty miles has been completed.

WM. H. WISENER.
Speaker of the House of Representatives.
EDWIN POLK.
Speaker of the Senate.

PUBLIC ACTS 1855-6, CH. 12, P. 18, PASSED OCT. 29, 1855.

AN ACT to amend the 2d section of an act passed 8th February, 1854, entitled "An act to amend an act passed February 11, 1852, entitled an act to establish a system of Internal Improvements in this State."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That should the one hundred thousand dollars of bonds authorized to be used for the bridge on the Mississippi Central and Tennessee Railroad, across the

Hatchie river, be more than sufficient to build said bridge according to the act authorizing the same, by the consent of said company, any surplus that may exist of said one hundred thousand dollars may be equally divided into three equal parts between the Forked Deer River, on said Mississippi Central and Tennessee Railroad, and the two forks of the Obion River, on the Mobile and Ohio Railroad; and said bonds may issue to said companies accordingly, on compliance with the conditions imposed by law; *provided*, the whole amount shall not exceed the one hundred thousand dollars.

NEILL S. BROWN,
Speaker of the House of Representatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

PUBLIC ACTS 1855-6, CH. 60, P. 67, PASSED NOV. 26, 1855.

AN ACT to amend an act passed February 11, 1852, chapter 151, entitled "An act to establish a system of Internal Improvements in this State."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the further time of (2) two years is hereby granted to the Memphis, Clarksville and Louisville Railroad Company, to bring themselves within the provisions of said act and the act amending the same.

Sec. 2. *Be it enacted*, that said railroad company may build its road from the Kentucky State line to the Tennessee river, in the direction of Paris; and whenever they shall obtain stock to grade, and prepare for the iron rails, the road between these points, as provided for by the existing law, said company shall be entitled to all the benefits and provisions of said act and the acts amending the same, and acts passed for the benefit of said road.

Sec. 3. *Be it enacted*, That said Railroad Company shall have the power and right to consolidate its stock with the stock of the Memphis and Ohio Railroad Company, whenever said two companies shall have obtained stock sufficient to grade their roads to a point of intersection, and said companies shall have one road, one company, and may adopt such name as they may think proper: *Provided*, that a majority of the directors of each company shall agree to such consolidation.

Sec. 4. *Be it enacted*, That said companies, when consolidated, shall be entitled to all the rights, powers, privileges and benefits conferred by existing laws on either of them; and when their power or rights are in conflict, the consolidated company may select from which charter they shall derive their powers: *Provided*, that no more State aid shall be given to the consolidated company than ten thousand dollars per mile, so as not to give double State aid; and that this amendment shall not work any forfeiture of the lien retained by the State on said railroad, but the State shall retain the lien given by the acts which this act is intended to amend.

Sec. 5. *Be it further enacted*, That the further time of two years be given to the Southwestern Railroad, to bring themselves within the provisions of the internal improvement acts, and the acts amendatory thereto.

Sec. 6. *Be it further enacted*, That this act does not work any forfeiture of the State aid granted to the Memphis and Ohio Railroad, and the Memphis, Clarksvills and Louisville Railroad Company, under the Act of February 11, 1852, chapter 151, entitled "An act to establish a system of internal improvement in this State," and the act amendatory thereto.

NEILL S. BROWN,
Speaker of the House of Representatives.

EDWARD S. CHEATHAM,
Speaker of the Senate.

Public Acts 1855-6, Ch. 51, P. 57, Passed Nov, 27, 1855.

AN ACT to extend the time for receiving State aid by the Louisville and Nashville Railroad Company.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the additional time of eighteen months, from the passage of this act, be, and the same is hereby granted to the Louisville and Nashville Railroad Company, to comply with the provisions of an act entitled "An act to establish a system of internal improvements in this State," passed February 11, 1852, and the amendments thereto, under the conditions and re strictions in said act specified, *Provided*, that the entire line of road, from Nashville to Bowling Green, in Kentucky, shall, in like manner, be completed and put in operation in three years from the passage hereof.

Sec. 2. *Be it further enacted*, That said company is hereby required to extend said road to some point in the city of Nashville, and that, for this purpose, said company shall, within two years, build and prepare for use, a good and substantial bridge across the Cumberland river: *Provided*, the subscriptions, State aid, or other means in the State of Tennessee, shall be sufficient for that purpose. That said Company will, within three months after an estimate shall have been made of cost of said bridge, cause the same to be let to contract, and proceed, if means appropriated or created by amalgamation of the means of companies, or by subscriptions of stock by individuals or corporations, be sufficient to the erection and construction of said bridge. When the contract of construction has been made, a copy shall be filed in the office of the Secretary of State, and it shall then be the duty of the Governor to execute to said company the bonds of the State of Tennessee, under the provisions of the act or acts authorizing the same, to an amount, from time to time, not exceeding one hundred thousand dollars, which may be necessary to meet the estimates of work done on said bridge, when the same shall amount to a sum not less than twenty thousand dollars: *Provided*, that the contract for construction shall not extend the time for completion of the said bridge beyond two years. Two directors, on the part of the State of Tennessee, on said company's accepting the provisions of this act, shall forthwith be appointed, who shall be from the time of their appointment in office, and at all meetings of the board, represent stock to the amount of five hundred thousand dollars, and represent the interest of the State at meetings of the stockholders ; and either may cast the vote of both, or, in writing, create a proxy to vote for the State. To entitle said company to the provisions of this act, said company shall, within sixty days after its approval, consent, by a resolution of the board to accept the same, and forward a copy of such acceptance to the Secretary of State, signed by the president and directors composing the board, and countersigned by the secretary, with the seal of the corporation affixed.

SEC. 3. *Be it enacted*, That this act shall take effect and be in force from and after its passage: *Provided*, that the lien of the State of Tennessee shall not extend beyond the State line.

NEILL S. BROWN,
Speaker of the House of Representatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

PUBLIC ACTS 1855-6, CH. 82, P. 92, PASSED JAN. 19, 1856.

(ERRONEOUSLY PRINTED 1855.)

AN ACT to amend the Internal Improvement acts of 1852 and 1854.

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That hereafter, it shall not be necessary for the engineer in chief to swear to the subscription list, solvency, and condition of any railroad company applying for State aid, but the oath required of the engineer shall be taken by the president and treasurer of the company, whose duty it is to know of the condition, solvency, and financial affairs of said company.

Sec. 2. *Be it enacted*, That it shall be lawful and proper for the East Tennessee and Virginia Railroad Company to lay down iron at either end of said road, and to draw the bonds of the State according to the General Internal Improvement Act, passed February 11, 1851-2, and the act of February 8, 1853-4.

Sec. 3. *Be it enacted*, That the fifth section of the act of February 17, 1854, be so amended that, hereafter, the bonds of the State may issue for ten miles or more of road graded, as required by existing laws, after the completion of the first thirty miles.

Sec. 4. *Be it further enacted*, That so much of the General Internal Improvement Acts of 1851-2, and 1853 and 1854; as requires the several railroad companies embraced within the provisions of the aforesaid acts, to have the bridges, abutments and embankments on the several sections of their respective roads complete before the bonds of the State shall issue to the companies of said roads, be so amended as to except those bridges, abutments and embankments, which have been provided with State aid.

Sec. 5. *Be it enacted*, That this act shall take effect from and after its passage.

NEILL S. BROWN,
Speaker of the House of Representatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

Acts of 1855-6, Chapter 228, Page 467, Passed January 30, 1856.

AN ACT explanatory of the proviso to the sixteen section of the Internal Improvement law of this State, passed 11th February, 1852.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Governor of this State, be and is hereby authorized and directed to issue coupon bonds of the State of Tennessee, to an amount not exceeding ten thousand dollars per mile, upon the same general terms, conditions and restrictions as are required by the General Internal Improvement act, passed 11th February, 1852, upon thirteen and one-half miles of road, in addition to the bonds already issued to the Memphis and Charleston Railroad Company, in order to supply the deficit of the issuance of bonds created by a proviso in section sixteen of the act of 11th February, 1852; said company agreeing to keep up as long as the main trunk, the branch road, as designated in the above section of the act of 11th February, 1852. That said act is passed solely for the purpose of placing the Memphis and Charleston Railroad Company upon an equality with other railroads that are entitled to State aid, under the General Internal Improvement Acts of the years 1851-2 and 1853-4. And that this act take effect and be in force from and after its passage. *Provided,* that the State shall have a prior lien on said road—stock, machinery, franchises and fixtures—for the amount of said bonds and interest thereon, as is retained by said State under said acts, and the several acts in force on that subject, or is now held by said State on said road for bonds heretofore issued, in preference to all others whatever.

ACTS OF 1855–6, CHAPTER 95, PAGE 105, PASSED FEBRUARY 18, 1856.

AN ACT to amend an Act entitled An Act to establish a State Agricultural Bureau, &c., and for other purposes; and for the purpose of purchasing permanent Fair Grounds, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the act entitled "An Act to establish a State Agricultural Bureau, &c., and for other purposes," be so amended, as that the State Biennial Agricultural Fair shall be held on the second Monday in the month of October, in the city of Nashville, or vicinity; That section (10) ten be so amended that live animals and stock raised in other States, but owned by citizens in this State, may compete for premiums.

SEC. 2. *Be it enacted*, That so much of section (13) thirteen as compels the State Bureau to raise, by contribution of individuals, a sum of money, a condition precedent to a receipt of the State bounty be, and is hereby repealed, and that the State Bureau be entitled to receive said bounty as therein specified, which said receipt of bounty shall relate to and commence, and be in force from the period of the passage of this act establishing the State Agricultural Bureau, passed February 21, 1854, and ever annually thereafter; and that so much of section (14) fourteen as directs the appropriation of said bounty by the State Bureau be, and is hereby repealed, and that the Bureau shall make the appropriation of said bounty by way of premiums, and for necessary expenses, under such rules and regulations as are therein specified.

Sec. 8. *Be it enacted*, That it shall be the duty of the State Agricultural Bureau to deposit in the Bank of Tennessee, at Nashville, at least fifteen days before the interest becomes due, from time to time, upon said bonds issued as aforesaid, an amount sufficient to pay such interest, including exchange and necessary commissions, or satisfactory evidence that said interest has been paid or provided for, and that at the end of five years after the purchase and completion of said buildings and fixtures, the said Bureau shall set apart one per centum per annum upon the amount of bonds issued to the Bureau out of the gate and entry fees, and shall use the same in the purchase of bonds of the State of Tennessee, which bonds the Bureau shall pay into the treasury of the State, after assigning them to the Governor, and for which the Governor shall give said Bureau a receipt; and as between the State and Bureau the bonds so paid in shall be a credit on the bonds issued to the Bureau, and bonds so paid in, and the interest accruing thereon from time to time, shall be held and used by the State as a sinking fund for the payment of the bonds issued to the Bureau; and should said Bureau repurchase any of the bonds issued to it under the provisions of this act, they shall be a credit as aforesaid and canceled.

Sec. 9. *Be it enacted*, That for the purpose of said location of Fair Grounds, there is hereby appointed out of the present General Assembly of the State of Tennessee, a committee of five, three on the part of the House and two on the part of the Senate, appointed respectively by the Speakers of each body; which said committee, when so appointed, is hereby empowered and directed to visit, investigate and examine such tracts or parcels of land as, in the opinion of the committee, will be suitable and eligible for Fair Grounds, and to contract for the purchase of the same; and the title bonds or deeds shall be taken in the name of the Tennessee State Agricultural Bureau.

SEC. 10. *Be it further enacted*, That section (27) twenty-seven of this act, passed February 21, A. D., 1854, establishing the State Agricultural Bureau, &c., be amended by appending an additional proviso, to wit: *Provided further*, that a majority of the delegate members present, as appointed under section (22) twenty-second of the aforesaid act to the succeeding Division Fair, show, or exhibition, shall in their discretion locate the Division show or exhibition, which said location shall be permanent and decisive. And if in the event of said location, there is hereby appropriated out of the treasury of the State, of moneys not otherwise appropriated, the sum of ($10,000) ten thousand dollars to each Division, for the purpose of purchasing permanent Fair Grounds and erecting necessary buildings and fixtures. And upon filing in the office of the Comptroller of the treasury a certificate, signed by the Commissioners as elected under section (29) twenty-nine of the act establishing the State Agricultural Bureau, &c., specifying, under oath, that the money is drawn for the purpose as aforesaid, and that it will be paid over to such officer or officers elected by the delegate members to receive same, and a warrant shall be issued; and that when said purchase has been made, the State of Tennessee shall be invested with a lien and mortgage, without a deed, from the delegate members, upon all the Fair Grounds and fixtures for which said money has been appropriated.

SEC. 11. *Be it enacted*, That the East Tennessee Agricultural Society, organized under the act entitled An Act to incorporate the Tennessee Agricultural Society, and for other purposes, passed December 18, 1851, is hereby authorized and empowered to amalgamate with the East Tennessee Division Fair, show or exhibition, upon the condition of uniting their means with said Division Fair, to be represented by the election of three directors, vested with as full powers and privileges as are given to any three delegate members, representing any county entitled to representation in the Division Fair, show, or exhibition; and when said amalgamation has been effected under conditions herein specified, the delegate members of the Division Fair are hereby authorized and empowered to contract for and purchase the stock of the East Tennessee Agricultural Society, at no greater sum than par, and upon such time and other terms as may be agreed upon by the parties.

NEILL S. BROWN,
Speaker of the House of Representatives.

EDWARD S. CHEATHAM,
Speaker of the Senate.

PUBLIC ACTS 1855-6, CH. 120, P. 143, PASSED FEB. 21, 1856.

AN ACT to aid in constructing a Railroad from Chattanooga to the East Tennessee and Georgia Railroad in the direction of Knoxville, and for the benefit of the East Tennessee and Virginia Railroad, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor be and he is hereby directed for and on behalf of the State to endorse and guarantee the payment of the six per cent. bonds of the East Tennessee and Georgia Railroad Company, to the amount of one hundred and fifty thousand dollars; and also similar bonds of the Nashville and Chattanooga Raliroad Company, for the sum of one hundred and fifty thousand dollars; the said bonds, or the proceeds thereof, to be applied exclusively toward the construction of a railroad from Chattanooga to an intersection with the East Tennessee and Georgia Railroad, in the direction of Knoxville, to be made and operated as a branch, or part of the East Tennessee and Georgia Railroad. And upon the making of such endorsement by the Governor, the State shall thereupon, by virtue of this act, be invested with a lien upon said branch road, with all its fixtures and appurtenances; and shall have the same remedies for enforcing said lien as are given by law for enforcing the lien against the Nashville and Chattanooga Railroad Company for similar endorsements heretofore made.

Sec. 2. *Be it enacted*, That before the Governor shall make such endorsement, he shall require the President of the East Tennessee and Georgia Railroad Company to make and file in the office of the Secretary of State an affidavit, sworn to before some Judge of the State, or Justice of the Peace for Knox or Davidson counties, declaring that such bonds, or the proceeds thereof, shall be in good faith applied to the construction of the proposed railroad from Chattanooga to the East Tennessee and Georgia Railroad, and to no other use or purposes whatever.

Sec. 3. *Be it enacted*, That the Governor of the State of Tennessee is hereby authorized and required to endorse and guarantee, in the name and on behalf of the State of Tennessee, the bonds of the East Tennessee and Virginia Railroad Company, to any amount not exceeding the sum of two hundred thousand dollars, bearing interest at the rate of six per cent. per annum, and payable thirty years after date; *Provided, always*, that the endorsement of said bonds by the Governor shall, *ipso facto*, constitute a lien upon the road, fixtures, and whole stock of the company, in addition to the lien heretofore secured by law.

SEC. 4. *Be it enacted*, That the bonds of the East Tennessee and Georgia Railroad Company, and the Nashville and Chattanooga Railroad Company, to be endorsed under the provisions of this act, shall in no instance be sold at less than par.

SEC. 5. *Be it further enacted*, That it shall be the duty of the several railroad companies in this State who have received, or may hereafter receive, bonds of the State, or the endorsement of their bonds by the State, to aid in the construction of their several roads, under the provisions of the act of 1851–2, and the acts amendatory thereto, at the expiration of five years from the issuance or endorsement of their said several bonds, annually to set apart, and pay over to the Treasurer of the State, two per cent. per annum upon all bonds which have been, or may hereafter be, issued or endorsed, as aforesaid, as a sinking fund for the ultimate redemption of the bonds issued or endorsed as aforesaid; which sinking fund, when paid over, the Governor, Comptroller of the Treasury, and President of the Bank of Tennessee, shall invest in bonds of the State, and reinvest all accruing interest in like securities; and they are hereby constituted a Board of Commissioners for the management, government and control of said sinking fund.

SEC. 6. *Be it further enacted*, That should any of said Railroad Companies fail or refuse to comply with the provisions of the fifth section of this act, it shall be the duty of the Governor forthwith to notify the Attorney General of the district, in which is situated the place of business of said company failing or refusing, as aforesaid, of the fact; and thereupon the Attorney General shall immediately proceed against company, to collect said sinking fund, in the manner prescribed in the sixth section of an act entitled An Act to establish a system of internal improvements in this State, passed February 11, 1852.

SEC. 7. *Be it enacted*, That for the purpose of aiding the Nashville and Northwestern Railroad Company in the construction of bridges on their said road, across the North and Middle Fork of Obion River, Spring Creek, Big Sandy, Turnbull, and Harpeth River; and for the purpose of aiding the Mobile and Ohio Railroad Company, in the construction of three bridges across the two forks of Obion, three forks of Forked Deer and Muddy Rivers; that coupon bonds of the State of Tennesses issue to the Nashville and Northwestern Railroad Company, in an amount not exceeding one hundred thousand dollars, fifty thousand dollars of which shall be applied to aid in constructing bridges in West Tennessee, and fifty thousand (being balance of said one hundred thousand) dollars to aid in constructing bridges across Turnbull and Big Harpeth in Middle Tennessee; also, that coupon bonds of the State of Tennessee shall issue to the said Mobile and Ohio Railroad Company, in an amount not exceeding sixty thousand dollars, for the purpose of aiding in building the aforesaid bridges, and that said bonds issue in both cases upon the conditions, and under the rules and regulations and restrictions, prescribed by the second section of an act passed 8th day of February, 1854, entitled An Act to amend an act to establish a system of internal improvements in this State, passed 11th day of February, 1852.

Sec. 8. *Be it further enacted*, That for the purpose of aiding the Memphis and Ohio Railroad Company in the construction of their bridges across the north fork of Forked Deer, and the two Obion Rivers, on the line of said railroad, between Trenton and Paris, that coupon bonds of the State of Tennessee, in an amount not exceeding fifty thousand dollars, issue to said company, upon the terms and conditions that State aid is now granted to said company, to construct their bridges across Forked Deer: *Provided*, said bonds shall not issue until said railroad is graded from Trenton to the Carroll County line in the direction of Paris.

Sec. 9. *Be it further enacted*, That whenever the Winchester and Alabama Railroad Company shall grade that part of their road, which lies between the town of Fayetteville, in Lincoln County, and the point of intersection with the main trunk line; that coupon bonds of the State of Tennessee shall issue to said Company, in an amount not exceeding fifty thousand dollars, to aid said Company in the construction of bridges across Elk River and its tributaries, which runs between the points aforesaid, under the same rules, regulations, and restrictions, and upon the conditions prescribed in the first section of this act.

Sec. 10. *Be it further enacted*, That the State of Tennessee does hereby guarantee and warrant the payment of the principal and interest of three hundred and fifty bonds, each for the sum of one thousand dollars, payable at thirty years, and bearing six per centum per annum interest, issued, or to be issued, by the city of Memphis, and paid to the Memphis and Little Rock Railroad Company, in payment for the stocks of said city, taken and held in the capital of said Railroad Company.

Sec. 11. *Be it enacted*, That it shall be the duty of the Governor of this State, as soon as said bonds, or any of them, are presented to him, to endorse thereon and attest with the State seal, the following endorsement, to wit:—"The payment of the principal and interest of this bond is guaranteed by the State of Tennessee;" and he shall sign said endorsement with his official signature; and said endorsement shall bind the State of Tennessee: *Provided*, that the said Memphis and Little Rock Railroad Company shall first endorse each of said bonds guaranteeing the payment of the principal and interest of the same: *Provided further*, that the city of Memphis shall first, by its proper authorities, execute a mortgage, giving to the State of Tennessee a priority of lien on the stock and interest of said city in said Railroad Company; *and provided further*, that said Railroad Company shall give to the State of Tennessee a prior lien upon the whole of the iron and equipments upon the first division of the said road, extending from Memphis to the St. Francis River, in Arkansas: *and provided further*, that the said bonds, when so endorsed by this State, shall not be sold for a less value than the bonds of the State are required by law, in such cases, to be sold.

Sec. 12. *Be it further enacted*, That the said city bonds shall not be so endorsed until the proper authorities of the city of Memphis shall provide and set apart a fund, known as a sinking fund, out of which shall be paid, over and above the six per cent. interest, two per centum per annum on the said three hundred and fifty bonds, or so many of them as may be endorsed by the State, commencing five years from this date.

SEC. 13. *Be it enacted*, That the Governor is hereby authorized and directed to issue coupon bonds of the State of Tennessee, to the amount of thirty thousand dollars, to the President and Directors of the McMinnville and Winchester Railroad Company, to be used by them in constructing bridges over the Barren Fork of Collins River, Hickory Creek, and Duck River, all of said road being now graded, and the tract in part laid down: *Provided*, that upon the making of such endorsement by the Governor, the State shall thereupon, by virtue of this act, be invested with a lien upon said road, and its fixtures: *Provided*, that the bonds that may be issued or endorsed by the State, under the provisions of this act, shall not be sold for a less amount than their par value, except the bond endorsed for the East Tennessee and Virginia Railroad Company. This act shall take effect from and after its passage.

NEILL S. BROWN,
Speaker of the House of Rapresentatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

PUBLIC ACTS 1855-6, CHAPTER 235, PAGE 478, PASSED FEBRUARY 26, 1856.

AN ACT to amend an act entitled An act to charter the South-western Railroad Company, and for other purposes, passed January 31, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the further time of two years is hereby extended to the South-western Railroad Company to bring themselves within the provisions of an act, entitled an act to establish a system of internal improvements in this State, passed February 11, 1852, and acts amendatory thereto.

SEC. 2. *Be it enacted*, That so soon as *bona fide* subscription of stock be taken and subscribed to the said South-western Railroad, sufficient to grade, bridge, and prepare the said railroad for iron rails, commencing where the same connects with the McMinnville and Manchester Railroad to Livingston, Overton County, near the Kentucky State line, and thirty miles, inclusive of side track measure, shall be graded and prepared ready for the iron rails, the Governor shall issue to said Company coupon bonds of the State, as directed in the act entitled "An act to establish a system of internal improvements in this State," passed February 11, 1852, and acts amendatory thereto.

SEC. 3. *Be it enacted*, That to aid said Company to complete the said South-western Railroad, the bonds of the State shall issue to said Company in like manner by the Governor for each bridge across Collin's River, Caney Fork, and Obed's River, under the same regulations and restrictions that bridge aid is granted to the other railroad companies in this State, for a sufficient sum to build the bridges over said rivers and no more, and not to exceed two hundred thousand dollars, which amount shall be included in the aggregate amount of subscription in said road, of stock; *provided*, that before the same shall issue, the amount necessary to build said bridges, estimated and certified to the Governor by a competent engineer; *And provided*, that nothing in this act shall prevent the State from having a lien upon the said road and stock, as provided in the act which this is intended to amend.

SEC. 4. *Be it further enacted*, That whenever the Winchester and Alabama Railroad Company shall grade and prepare for the laying down of the iron rails upon so much of said road as lies between Decherd's Depot, (where the Winchester and Alamaba Railroad intersects the Nashville and Chattanooga Railroad), and the Boiling Fork of Elk River, then the Governor shall issue to the President and Directors of said Winchester and Alabama Railroad Company coupon bonds of the State of Tennessee to the amount of thirty thousand dollars for the purpose of constructing a bridge across said stream—said bonds to be issued under the same rules and restrictions as provided in an act entitled An act to establish a system of internal improvements in this State, passed February 11, 1852, and acts amendatory thereto.

SEC. 5. *Be it further enacted*, That in lieu of the State aid granted the Nashville and Southern Railroad Company, and for the purpose of enabling the Tennessee and Alabama Railroad Company, and the Central Southern Railroad Company to form a connection of their roads at Columbia, the Governor of the State is hereby authorized and required to issue coupon bonds of the State of Tennessee to the Tennessee and Alabama Railroad Company, and to the Central Southern Railroad Company to an amount not exceeding one hundred and fifteen thousand dollars to said Tennessee and Alabama Railroad Company, and to an amount not exceeding eighty-five thousand dollars for the Central Southern Railroad Company—said bonds bearing an interest of six per cent. per annum, payable semi-annually, at such places as the respective Presidents of said companies may designate, and which bonds shall be payable in not less than thirty, nor more than forty years after date; said aid being hereby granted for the purpose of aiding said companies to build bridges across Duck and Buffalo Rivers, upon the line of the Tennessee and Alabama Railroad Company; eighty-five thousand of the one hundred and fifteen thousand dollars shall, so far as necessary, be applied by said company to the construction of a bridge across Big Buffalo. After the construction of said bridge across Duck River, it is hereby made the duty of said Tennessee and Alabama Railroad Company, and is hereby declared to be a part of their charter, and made the duty of said company, to continue the construction of said road, as specified in the present charter of the Tennessee and Alabama Railroad Company, and amendments thereto, in the direction indicated in said charter and amendments. The aforementioned eighty-five thousand dollars to the Central Southern Railroad Company shall be applied to the construction of a bridge across Elk River on the line of said Central Southern Railroad; *provided*, the aforementioned bonds shall be issued upon the terms and conditions mentioned in an act passed February 4, 1852, entitled "An act to aid in the completion of the East Tennessee and Georgia Railroad," [except the second section,] and also the fifth and sixth sections of an act passed February 26, 1852, entitled "An act to charter the Chattanooga, Blue Spring and Cleveland Railroad Company, and for other purposes," and said bonds to be issued under this section shall be included in the aggregate amount of stock raised by said companies, in the same manner that the three hundred thousand dollars of bonds loaned to the East Tennessee and Virginia Railroad Company, under an act passed January 15, 1852, to enable said company to build bridges, are provided to be included in the aggregate amount of stock to be raised by the East Tennessee and Virginia Railroad Company. That the obligation specified in this section, by which the Tennessee and Alabama Railroad Company are required to build their road to the town of Columbia, shall be binding upon said Tennessee and Alabama Railroad Company, only on condition that the citizens of Maury county subscribe an amount of stock sufficient to complete the local work of said road from its present terminus, near Spring Hill, to the town of Columbia, the bridge across Duck River excepted.

SEC. 6. *Be it further enacted by the General Assembly of the State of Tennessee*, That the Edgefield and Kentucky Railroad shall be entitled to all the benefits of the second section of an act passed February 8, 1854, entitled "An act to amend an act passed 11th February, 1852, entitled 'An act to establish a system of internal improvements in this State,'" and of all the acts referred to in said sections, for each bridge that said road may have to build across Red River and Sulphur Fork: *Provided*, that aid shall not be granted for building more than one bridge across each of said streams; *and provided*, that the aid granted shall not exceed ($130,000) one hundred and thirty thousand dollars for both bridges.

SEC. 7. *Be it enacted*, That the estimates of the cost of said bridges shall be made by the Chief Engineer of the road under oath, and that the same shall be examined and approved by the Commissioner of Roads.

SEC. 8. *Be it further enacted*, That the provisions and restrictions of the foregoing sections in relation to bridges for the Edgefield and Kentucky Railroad Company, shall apply to the Memphis, Clarksville and Louisville Railroad Company, for a bridge across Red River *Provided*, that the aid granted for constructing said bridge shall not exceed ($50,000) fifty thousand dollars.

NEILL S. BROWN,
Speaker of the House of Representatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

ACTS 1855-6, CH. 58, P. 65, PASSED FEB. 29, 1856.

AN ACT to regulate and define the Duties of the Road Commissioner of this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That, in addition to the reports now required by law to be made to the Governor of this State, by Railroad Companies entitled to State aid, under the General Internal Improvement Law, passed February 11, 1852, and the amendments thereto, that said Railroad Companies shall, at least once in two years, sixty days before the meeting of each General Assembly, make to the Railroad Commissioner of this State, a full and condensed report (under oath) of the condition of said Company; which report shall embrace the following points: 1. Length of whole road. 2. Length in Tennessee. 3. Cost of whole road. 4. Cost of road in Tennessee. 5. Equipment of whole road. 5. Equipment in Tennessee. 7. Finished road on whole line, also, in Tennessee. 8. Capital stock subscribed, and amount paid in. The funded or bonded debt as well as floating debt. Amount of road graded, but not finished. The gross earnings of road in operation; the expenses of running, and keeping the same in order—showing the net earnings. The cost of road—shall specify such cost under the following heads, giving the cost of each: Grading and masonry, grubbing and clearing, bridges and trestle-work, iron and iron materials for construction, track-laying, cross-ties, real-estate, right of way, engineering, and general expenses incident to construction, equipment, estimates, depots, water stations, machine shops, locotives, cars, &c., with a detailed statement of the amount of each, and their cost. Said reports to be made by the President, Chief Engineer, and Treasurer, of the Company, under oath. The Chief Engineer's report and oath, embracing the condition and equipment of the road; the Treasurer, the financial; and the President, the general condition of the whole.

SEC. 2. *Be it enacted*, That it shall be the duty of the Commissioner of Railroads, on or before the fifteenth day after the commencement of each regular session of the Legislature, to make a general report, showing the manner in which he has discharged his duties—the condition of the various railroads in the State—and all other matters connected with the office, with which the State is interested. And it shall be, moreover, his duty to have each of the reports provided to be made to him, in the first section of this act, considered and the whole embodied in his report, and lay the same before the General Assembly, within the time specified in this section of this act.

NEILL S. BROWN,
Speaker of the House of Representatives.
EDWARD S. CHEATHAM,
Speaker of the Senate.

CODE OF TENNESSEE, ADOPTED 1857–8, P. 265.

1091. By the act of 1852, ch. 151, and subsequent acts amendatory thereof, a system of internal improvements by means of railroads is developed by the aid of the State through the loan of its credit.

1092. Upon its being satisfactorily shown to the Governor that either of the railroad companies in these acts mentioned has procured bona fide and good and solvent subscriptions of capital stock to an amount sufficient to grade, bridge, and prepare for the iron rails the whole extent of the main trunk line proposed to be constructed by such company, and has graded, bridged, and fully prepared thirty miles of the road at either terminus for the iron, the Governor is authorized to issue to the company coupon bonds of the State to an amount not exceeding ten thousand dollars a mile on such section, and one hundred thousand dollars for bridges across certain rivers and streams, and so on each additional section of ten miles. Such bonds shall not have more than forty nor less than thirty years to mature; shall be payable at some point in the United States to be designated by the President of the

Company, and bear interest at the rate of six per cent., payable semi-annually.

1093. If the entire road is less than thirty miles or the last section less than ten miles, the bonds shall be issued upon the completion of the grading of the whole road in the one case, and of the last section in the other.

1004. No bonds are to be issued except upon the affidavit of the President of the company, and a resolution of the board of directors, that they are not to be used for any other purpose than for procuring the iron rails, chairs, spikes and equipments, and for putting down the rails; nor are such bonds in any case to be sold at less than their par value.

1095. The bonds are not to be used for any other purpose than for procuring the iron rails, chairs, spikes and equipments for the prepared section of such road and putting down the rails thereon; and the Governor may appoint a commisioner to act under oath in connection with the President of the road in the negotiation of the bonds, and to see that the proceeds are properly appropriated, and the interests of the State fully protected.

1096. It shall be felony for an officer, agent, or servant of a railroad company to appropriate such bonds, or the money arising from the sale thereof, or any portion of either, to any other use than that prescribed by law.

1097. These bonds, when issued, constitute a lien upon the section of the road so prepared including the road-bed, right of way, grading, bridges, and masonry, upon all the stock subscribed to such road, and upon the iron rails, chairs, spikes, and equipments when purchased; the State being vested with the lien, without any conveyance, as a security for the payment by such company of the interest on such bonds as it falls due, and of the principal of the bonds at their maturity.

1098. And upon the completion of the entire road, the State is invested with a lien without deed, for the purposes mentioned, on the whole road, superstructure, equipments and stock, and upon all the property owned by the company as incident to or necessary for its business.

1099. Nor can such company, after the issuance of the bonds for the first section, create any lien, encumbrance, or mortgage on any part of the road, or on any portion of their property, in conflict with or having priority of the State lien.

1100. It is the duty of such company, at least fifteen days before each instalment of interest on the bonds issued to it becomes due, to deposit in the Bank of Tennessee, at Nashville, a sum of money sufficient to pay such interest, including exchange and necessary commissions ; or furnish satisfactory evidence to the Comptroller that such interest has been paid or provided for.

1101. Upon failure to comply with the requirements of the preceding section, the Comptroller shall report the fact to the Governor, who shall forthwith appoint a suitable person, at the expense of the company, to take possession and control of the road, and all the property and effects of the company, manage the same and receive the rents, issues and profits.

1102. The Governor, if necessary, may issue his warrant to the sheriffs of the different counties through which the road may run, commanding them to put the receiver appointed in possession of the road, its property and effects.

1103. The receiver shall, however, first give bond, with satisfactory surety, in a penalty to be fixed by the Governor, payable to the State, conditioned for the faithful discharge of his duty as receiver, and that he will receive the rents, issues and profits and pay the same under the direction of the Governor, in liquidation of the unpaid interest.

1104. The receiver shall continue in possession and manage the road until a sufficient sum is realized, exclusive of the costs and expenses incident to the proceedings, to pay off the unpaid interest, after which he shall surrender the road to the company.

1105. The Comptroller shall, from time to time, settle with the receiver, who shall forthwith pay into the treasury any surplus funds in his hands.

1106. The Comptroller shall, upon his warrant, draw from the treasury any sum necessary to meet the interest falling due upon the bonds of the State, and not provided for by the railroad companies.

1107. If the company fail to pay any of the bonds at maturity, the Governor shall notify the Attorney-General of the district in which such company has its place of business, who shall immediately file a bill in the Chancery Court to enforce the lien of the State; which Court shall appoint a receiver, order a sale of the road, and all the property and effects of the company, and otherwise decree as may best protect the interests of the State.

1108. At the end of five years afrer the issuance of each bond to which such road is entitled, such company shall set apart two per centum per annum on the amount of bonds issued to the company, to be used in the purchase of the bonds of the State; which, when purchased, shall be assigned to the Governor, and held, with the accruing interest, as a sinking fund for the payment of the bonds issued to such company. And the Governor, Comptroller of the Treasury, and President of the Bank of Tennessee, are constituted a Board of Commissioners for the management of said fund, and shall re-invest the same in bonds of the State.

1109. Should such company fail to comply with the provisions of the preceding section, it shall be proceeded against in the same way as above provided upon its failure to meet any instalment of interest.

1110. The president of each of these companies shall make semi-annual reports under oath to the Governor, until the completion of the road, setting forth fully the condition of the road and the company; and, after its completion, he shall report to the Governor annually, giving a statement of the trade and travel upon the road, the receipts and expenditures, net earnings and dividends, what per cent. is paid on the stock of the stockholders, and the financial condition of the company generally.

1111. Such companies shall also, at least once in each year, on the first of September, make to the railroad commissioner a report as required in the next chapter, which treats of that officer.

1112. In the event any of these roads, or the property thereof, is sold under the foregoing provisions, the Governor shall appoint an agent to attend the sale, and bid in the property if necessary to protect the interests of the State; in which case the Governor shall appoint a receiver to take possession and manage such road as hereinbefore provided.

1113. The State of Tennessee expressly reserves the right to enact, by the Legislature, all such laws as may be deemed necessary to protect the interests of the State, and to secure the State from loss in consequence of the issuance of such bonds; but so as not to impair the vested rights of the stockholders of the companies.

1114. The State is entitled to two directors, to be appointed by the Governor, in all railroad companies to which her bonds are issued.

1115. Whenever the president and directors of any such railroad fail to pay the interest on their bonds endorsed by the State, the entire board of directors shall be immediately supplanted by the election and appointment of a new board, if the Governor is of opinion that the interest of the State will be thereby promoted.

1116. In such case he shall give the stockholders of the delinquent company immediate notice of the delinquincy, and command them to elect another board, and prescribe the time and place of the election.

1117. In case of such default, all further State aid shall be withheld until the company pays the interest due on their bonds.

1118. The guage of all the roads in the State, except those connecting with railroads of other States of different guage, is required to be five feet.

1119. All the railroads of the State have power to construct their roads so as to cross each other, if necessary, by the main trunks or branches, or to unite with each other as with branches.

1120. Every railroad company, when required, shall receive on its road and branches the full-loaded freight cars of all other companies, transport them to their destination, and return them, without charging for the transportation of the goods, wares, merchandise, and produce therein, any greater rate of freight than they charge for similar transportation in their own cars.

1121. But such roads are not compelled to receive the laden cars of other roads unless they are constructed of the same guage, and are of equal strength with their own cars, of which their principal engineer is to be the judge.

1122. A railroad company owning any main line may contract with any company owning a railroad connecting with such main line, for the lease thereof.

1123. The lessee shall hold such road subject to the liens and liabilities to which it was subject in the hands of the lessor, and be bound for all payments for which the lessor was liable.

REPORT OF INTERNAL IMPROVEMENT COMMITTEE, MADE NOV. 14, 1857. SENATE JOURNAL 1857-8, P. 146.

The Internal Improvement Committee have had the bill, No. 56, under consideration, and a majority have directed me to report a bill in lieu, and recommend the passage of the same. Your committee beg leave to further report that they have unanimously determined to recommend such a line of policy as will in their judgment best protect the interest of the State, and that of the railroad companies. It is clear to every mind that will reflect upon the present and the past, that Tennessee has already extended her aid to works of Internal Improvement beyond that line of safety. The vast amount of her State securities, that have been so hastily thrown upon the market, have had a tendency to paralyze the credit of the State; the result has fallen heavily upon the companies, who have been the recipients of the bonds of the same, in many instances almost ruinously so to many of these companies. State securities have yet to be issued for the final completion of their roads. In view of these facts, and desiring to protect the interest of the people of Tennessee, as a State, and the rights and interests of the companies, as well as those who hold our securities, your committee will steadily oppose the creation af any new companies, to which the aid of the State is in any way to be given; and to prune or lop off such companies as have not already a vested interest that will compel the State to comply with former legislation on this subject. In this way, several millions of dollars of our contemplated indebtedness may, without serious injury to the companies, be held for nothing, or the law giving such contemplated aid be repealed. To effect this, your committee recommend that the Senate steadily refuse to pass any law giving to companies who have not in good faith commenced their work of construction, an extension of time, so as to allow them still to get up their stock and company organization, and claim the State aid. By this course, we will greatly diminish our prospective debt. Notwithstanding the great anxiety of the committee to lessen the liabilities of the State, they are unwilling to recommend violence on the vested rights of our citizens, who have vested their money with the advice and consent of the Tennessee Legislature in these works of Internal Improvement. Although some of these companies may have not, to the letter, complied with the law, yet they are struggling to the utmost of their ability, in good faith, to complete their roads, and have the same in a course of construction; with these companies, a majority of the committee sympathize, and recommend such leniency by the Legislature as the interest of the company demand, so as not to endanger the interest of the State.

In some of these companies the State has already become involved, and strictly to require the law executed, will, doubtless, prove ruinous to the interest of the State to the amount she has already vested or become liable for. To such companies as these a majority of your committee recommend an extension of time to a reasonable extent, if the evidences are that the same is progressing to completion. But your committee, in recommending this leniency, will not be understood as recommending an extension of time, if the surrounding circumstances do not demand it; or in other words every company must be adjudged of accordingly. There are still other companies that your committee believe can be materially assisted by a slight departure from the Internal Improvement law. The bill under consideration presents one of this description of cases, as presented in the bill I have this morning returned. This company, as the evidence shows, has thirty miles of her road graded, and ready for the timber, or will be in a short time, with the exception of a cut, nine hundred feet long, some nineteen miles from Nashville. This cut is through the Cumberland Ridge, and from its peculiar situation, but a small force can be advantageously employed; this will necessarily delay the work for some time. This company asks that the bonds she would be entitled to, if this cut were finished, shall be issued to her at this time, so as to enable them to purchase the iron for this thirty miles, so as to commence the work of track-laying at Nashville, anticipating that by the time this cut is finished, the cars will be running to the ridge, so that work may not be retarded—the one waiting for the other. The completion of this thirty miles of said road, your committee has no doubt will be finished according to existing regimens of law. And to aid the steady progress of the work to the end, that the company may the sooner have the use of the road, they recommend this departure from the present rule of law on this subject; for these reasons a majority of the committee recommend the passage of the bill.

W. P. DAVIS,
Chairman.

220

ACTS OF 1857–8, CH. 65, P. 76, PASSED MARCH 17, 1858.

AN ACT for the benefit of Blount county, to authorize the County Court of Knox to fix the compensation of railroad tax collectors, to amend the first section of an act passed 8th February, 1858, entitled, an act to produce uniformity in the reports of railroad companies, &c,, and to protect timber, &c., near railroad lines.

SEC. 6. *Be it further enacted*, That any surplus of State Bonds issued under the internal improvement act, and the acts amendatory thereof, which any railroad company may have left after providing the rails and equipment of their road, or of any section thereof, may be applied to ballasting, trestling or construction.

EXTRACT FROM MESSAGE OF GOVERNOR ANDREW JOHNSON, OCT. 6, 1857, ON THE SUBJECT OF THE BANK OF TENNESSEE, HOUSE JOURNAL, 1857–8, P. 22 AND 23.

The strongest objection now urged to the winding up of the Bank of Tennessee is, that it is necessary as a fiscal agent for the State to receive its revenue and disburse the same, to pay the interest on State Bonds that have been issued, or may hereafter be issued. This objection, when examined and reduced to a practical test, ceases to have any force or solidity in it whatever. I would most respectfully suggest that all the duties now performed by the Bank of Tennessee as a fiscal agent in receiving and disbursing the revenue of the State, and paying the interest upon State Bonds. can be performed by the Comptroller and Treasurer, the financial officers of the State proper, with equal convenience and safety, at at a far less expense than it now costs to carry on the machinery os the Bank of Tennessee.

It is a matter of great importance to the people of Tennessee that our State should be free from debt. If the policy I have recommended should be adopted, the debt which accrued under the acts of 1835-6, and 1837-8, would be liquidated in a very short time. We should then have no interest to pay in the Eastern cities, except on the bonds loaned to railroad companies, and would, therefore, need no bank or other fiscal agent to make payment at any place, other than at the office of the State Treasurer.

Under the act of 1851-2, by which the State credit was loaned to various railroad companies, provision was made that the interest accruing on the bonds loaned should be paid into the Bank of Tennessee fifteen days before it became due in New York. Surely any president of a railroad company having the money to pay the interest on the bonds issued to his road, could, in less than fifteen days, by buying exchange from a bank or broker, or by shipping coin, transfer the amount to New York, or any other point in the Union. This is often done now, as many of the roads have issued bonds which are endorsed by the State, and the interest has been promptly met, without any agency on the part of the Bank of Tennessee. Our merchants and manufacturers must necessarily have frequent payments to make in the Northern and Southern States. These payments are made by purchasing exchange from banks or brokers, and so long as capital is employed in any pursuit which requires the transmission of money from one point to another to pay for articles purchased, there surely will be, even in the absence of all banks, exchange brokers, or factors ready to supply and demand for exchange.

In no event can there be any necessity for a fiscal agent, other than the Treasurer or State Comptroller. Both of these officers should be well qualified for the important positions they occupy, and as competent to manage the finances of the State as a bank president or cashier. The Constitution of the State provides for the election of a Treasurer, and entrusts to him the receiving and disbursing the entire funds of the State.

EXTRACT FROM REPORT OF J. T. DUNLAP, COMPTROLLER, OCTOBER, 1859, ON THE SUBJECT OF STATE DEBT, RAILROADS, &C., PUB. DOC., TENN. LEGISLATURE, 1859-60, PP. XI, XII.

STATE DEBT—RAILROADS—SINKING FUND.

The entire indebtedness of the State of every descriptio, is $16,643,666.66. Of this only $3,844,606.66 constitute the State debt proper, an amount which could be redeemed at any moment, if due, with the capital owned by the State in the Bank of Tennessee. All but $87,000 of the balance of the public debt. $12,799,000, was loaned to railroad companies in State bonds, or the companies bonds were endorsed by the State. There is no reason why these bonds should not command a premium for investment, if certainty of payment and ability to pay are inducements to capitalists. The material prosperity of the State, her taxable property having increased more than $150,000,000, from $219,-

011,47 to $377,208,541, since the completion of her first railroad in 1854—the statutory line upon the roads and fixtures in favor of the State—the certainty of the payment of interest through the Bank of Tennessee, and its compulsory payment to the bank by the roads, by removal of its officers and directors if not paid promptly—the wise provision of the Legislature, creating a sinking fund for the ultimate redemption of the bonds, requiring two per centum per annum upon the amount loaned, with prompt process to collect; a sum so small as not to embarrass the operation of the roads, but large enough to redeem every bond issued before its maturity—the prosperity of the finished roads, their actual profit and comparatively small bonded debt—are material and ostensible guarantees, without appealing to State pride, that these bonds will be paid. If the railroads were worthless, the debt would still be paid. The annual interest upon this railroad debt is $763,720—the two per cent. added for a sinking fund would make $1,018,700. To pay this the present State tax would be about doubled—a tax much lighter than many of the States now pay. But the railroads themselves have thus far shown an ability to pay the interest and the sinking fund, which secures the ultimate redemption of the bonds, by their profits, as well as dividends to the stockholders. It does not matter to the State or to the bondholder whether the roads make profits for the stockholders or not, so long as the interest and the sinking fund are certainly made. The stockholders might feel compensated for their entire loss of stock by the enhancement in the value of their lands through which the roads pass. The State lends to the companies $10,000 of its bonds for each mile of railroad, and additional for bridge aid, making about $11,000 for each mile. The cost of the finished roads, fixtures, and equipments, average about $27,000 or $28,000 per mile. The State and the bondholder, being interested in the profits only to the extent to cover the interest and sinking fund upon the $11,000, would always be safe so long as the road made eight per cent. upon that amount or about three per cent. upon the whole cost of the road. And this per cent., or any per cent., is much more easily made by a Tennessee railroad than a northern one—it costs about double as much to build a road there as here—of course the road there will have to make double as much as the road here to pay the same interest upon its cost. Besides, I understand there is more capital paid here at the time of building the road than there—here the roads are mostly paid for at the time of building, with the exception or the (about) $11,000 per mile—there most of the companies issue $30,000 or $40,000 or more bonds of the companies for each mile, bearing, too seven or eight per cent. interest, while ours is six per cent., thus creating a further necessity to make more than double as much as our roads to declare the same profits upon the cost. The Northern roads are not, therefore, comparable to ours as security for investment in the stock even, and much less so in the bond they issue, and the bonds issued by the State here for railroad purposes, having the company and the State both bound in Tennessee. To illustrate the safety to the bondholder, as well as to the State, it is but necessary to glance at the present condition and operations of the finished roads in the State—those not noticed having been finished less than a year, or the facts concerning them not readily accessible. The Nashville and Chattanooga road, fixtures and equipments, cost about $28,000 per mile. The State endorsed her bonds for $1,650,000, the interest and sinking fund upon which amount to $132,000—the net profits of the road for 1859 are

$320,000, leaving $188,000, after paying interest and sinking fund, to be distributed among the stockholders.

The Memphis and Charleston Railroad fixtures and equipments cost about $28,000 per mile—the State loaned it $1,100,000; the road issued $2,000,000 of other bonds—interest upon the whole, and sinking fund upon the part loaned by the State are $208,000, the net profits of the road for 1859 $600,000, leaving $392,000 to be divided as profits among the stockholders.

The East Tennessee and Georgia Road, fixtures and equipments cost about $27,000 per mile—the State loaned and endorsed for it $1,312,000 of bonds, the interest and sinking fund upon that amount are $104,960—the net profits of the road for 1859 are $162,000—leaving $57,000 to be distributed among the stockholders.

EXTRACT FROM REPORT OF J. T. DUNLAP, COMPTROLLER, OCTOBER, 1859, ON BONDS AND COUPONS. PUBLIC DOCUMENTS TENN. LEGISLATURE, 1859-60, PP. 3 and 4.

REGISTER OF BONDS AND PAYMENT OF COUPONS.

Sections 209 to 213, inclusive, are unreasonable, impracticable and unnecessary, and throw an amount of labor upon this office impossible to be performed without a heavy clerical force, and keep up its current business.

Section 209 requires the Comptroller to keep a book in which to register the number and date of every bond heretofore or hereafter to be issued, to whom, and for what purpose. The Secretary of

State does this. His is the office from which bonds issue, and to whom receipts, in a book, are given. There is no necessity for the Comptroller to do it, and, after being done, it would be but a copy from the Secretary's books, and not receivable, except by special enactment, as evidence anywhere. It is an immense labor upon an officer already overburthened with legitimate business, without any practical or beneficial result being accomplished.

Section 210 requires a continuation of unnecessary labor, by having all the coupons marked in columns opposite the bonds, the time when they fall due, and marked as paid. When a coupon is paid, every material fact is and always has been put upon a book in the Comptroller's office, at the time the warrant issues; when it is paid by the Treasurer, the receipt is returned to the Comptroller, when he countersigns the check for it, and the same facts go upon another book. It would seem that putting down all the facts twice would be sufficient, but this law requires the same facts in a third book, with no counterparts or checks upon it, as the former are by the Treasurer's books. Besides, it is a moral impossibility to do it. More than three-fourths of the bonds of the State have been issued to railroad companies, with the coupons payable in New York; the Bank of Tennessee, as agent for the railroads, pays them there; they are never presented to the Comptroller, and he cannot know of their payment, except upon hearsay evidence, and his record of the fact would be worthless.

Section 211 requires the bond book of the Comptroller to show the final payment of the bond. His ordinary books do that, if paid at the Treasury, and it is therefore unnecessary to keep another and unusual book for the purpose. The Secretary of State (section 197, sub-sec. 16) is required, as the more proper officer, and the one from which they issue, to keep a registry of the payment and cancellation of bonds.

Section 212 requires a repetition in a third book of what is always put in two books in the Comptroller's office, with the additional labor of writing the number of the warrant upon the coupon, and saying who presented, not owned it. The books used for the payment of all other claims against the State show all the facts. I always cancel a coupon upon paying it, and paste it in a book. They are not debts of a more sacred character than others—not more likely to be paid twice—cannot be when cancelled—receipts are always taken as for other claims—any malpractice in their repayment would be as discoverable as any other fraud upon the Treasury.

Section 213 contains the penalty for a violation of these provisions—quite an inducement to a common informer. It is to be hoped these sections will be repealed, and a law substituted requiring the coupons to be cancelled and filed with the receipts, as other claims are. Then each case could be examined for itself.

While upon the subject of the Comptroller's duties, I would say that it is impossible for any one man to perform himself all the labors of this office, unless he have much higher qualification for business than the present incumbent. Requiring the Comptroller to pay his own clerk hire is equivalent to a reduction of his salary to that extent.

EXTRACT FROM REPORT OF J. T. DUNLAP, COMPTROLLER, OCTOBER, 1859, ON SINKING FUND FOR RAILROADS. PUBLIC DOCUMENTS 1859-60, PAGES 57, 58, 59, 60.

SINKING FUND FOR RAILROADS.

Acts of 1855-56, chap. 120, sec. 5, says: That it shall be the duty of the several railroad companies in this State who have received, or may hereafter receive, bonds of the State, or the endorsament of their bonds by the State, to aid in the construction of the several roads, under the provisions of the act of 1851-52 and the acts amendatory thereto, at the expiration of five years from the issuance, or endorsement, of their said several bonds, annually to set apart and pay over to the Treasurer of the State two per cent., per annum upon all bonds which have been, or may hereafter be issued or endorsed, as aforesaid, as a sinking fund, for the ultimate redemption of the bonds issued or endorsed, as aforesaid, which sinking fund, when paid over, the Governor, Comptroller of the Treasury, and President of the Bank of Tennessee shall invest in bonds of the State, and reinvest all accruing interest in like securities, and they are hereby constituted a board of commissioners for the management, government and control of said sinking fund.

Sec. 6 of same act provides, that in case of any railroad company failing to comply with the requirements of sec. 5, as aforesaid, that the Attorney General shall immediately proceed against said company, to collect said sinking fund in the manner prescribed in the 6th section of an act, entitled An Act to establish a system of internal improvements in this State, passed February 11, 1852.

In compliance with this statute, the following railroad companies have paid into the treasury the respective sums here credited, which has been invested in the purchase of bonds as here described, the accruing interest on which, also, appears to the credit of the different roads for whose benefit the purchase was made:

THE NASHVILLE AND CHATTANOOGA RAILROAD COMPANY'S SINKING FUND ACCOUNT.

No. of Bonds.	DR. *To Cash Paid for*		
41	Nashville and Chattanooga Railroad Company's Bonds endorsed by the State, each for $1,000		$32,565 60
1	East Tennessee and Virginia Railroad Bond endorsed by the State, for $1,000		750 00
	Express charges on Bonds from New York		5 25
42			$33,320 85
	CR. *Contra.*		
	By cash, 2 per cent. calls paid	$30,920 85	
	Interest on Bonds collected	2,400 00	
		$33,320 85	$33,320 85

THE EAST TENNESSEE AND VIRGINIA RAILROAD COMPANY'S SINKING FUND ACCOUNT.

No. of Bonds.	DR. *To Cash Paid for*		
15	Nashville and Chattanooga Railroad Company's Bonds endorsed by the State, each for $1,000		$11,200 00
1	Memphis City Bond for $1,000, endorsed		750 00
1	East Tennessee and Georgia R. R. Co.'s Bond for $1,000, endorsed		800 00
6	East Tennessee and Virginia R. R. Company's Bonds, each for $1,000, endorsed		4,800 00
1	State Bond for $1,750, 5 per cent. interest		1,400 00
24			$18,950 00
	CR. *Contra.*		
	By cash, 2 per cent. calls paid	$18,000 00	
	Interest on Bonds collected	1,230 00	
	Balance not invested		280 00
		$19,230 00	$19,230 00

THE EAST TENNESSEE AND GEORGIA RAILROAD COMPANY'S SINKING FUND ACCOUNT.

No. of Bonds.	DR. *To Cash Paid for*		
12	East Tennessee and Virginia R. R. Company's Bonds, each for $1,000, endorsed by the State................		$9,360 00
1	Nashville and Chattanooga R. R. Company's Bond for $1,000, endorsed by the State.........................		800 00
2	East Tennessee and Georgia R. R. Company's Bonds, each for $1,000, endorsed by the State..................		1,600 00
15			$11,760 00
	CR. *Contra.*		
	By cash, 2 per cent. calls paid..........	$11,880 10	
	Interest on Bonds collected..........	570 00	
	Balance.......................		690 10
		$12,450 10	$12,450 10

THE MEMPHIS AND CHARLESTON RAILROAD COMPANY'S SINKING FUND ACCOUNT.

No. of Bonds.	DR. *To Cash Paid for*		
2	East Tennessee and Virginia R. R. Company's Bonds, each for $1,000, endorsed.................................		$1,460 00
7	Capital Bonds, each $1,000............		6,450 00
3	State 5 per cent. Bonds, } each }		5,040 00
3	State 5¼ per cent. Bonds, } $1,000 }		
5	East Tennessee and Georgia R. R. Company's Bonds, each for $1,000, endorsed................................		4,000 00
20			$16,950 00
	CR. *Contra.*		
	By cash, 2 per cent. calls paid..........	$16,040 00	
	Interest on Bonds collected..........	1,207 50	
	Balance.......................		297 50
		$17,247 50	$17,247 50

THE TENNESSEE AND ALABAMA RAILROAD COMPANY'S SINKING FUND ACCOUNT.

No. of Bonds.	Dr. *To Cash Paid for*		
1	East Tennessee and Georgia Railroad Company's Bond for $1,000, endorsed		$800 00
4 3	State 5¼ per cent. Bonds, } each $1,000 } State 5 " "		5,600 00
8			$6,400 00
	Cr. *Contra.*		
	By cash, 2 per cent. call	$6,000 00	
	Interest on Bonds collected	210 00	
	Balance	190 00	
		$6,400 00	$6,400 00

RECAPITULATION.

No. of Bonds.			
	Whole amount received for 2 per cent. call from Railroad Companies that have had State aid for five years, and are subject to the call by the aforesaid statute, to this date		$82,840 95
	Interest on Bonds collected		5,617 50
			$88,458 45
	Invested as follows:		
57	Nashville and Chattanooga Railroad Company's Bonds, endorsed	$44.565 60	
21	East Tennessee and Virginia Railroad Company's Bonds	16,370 00	
14	State Bonds, 7, 5 per cent., } " 7, 5¼ " }	12,000 00	
7	Capitol Bonds	6,450 00	
9	East Tennessee and Georgia Railroad Company's Bonds	7,200 00	
1	Memphis City Bond	750 00	
100	Balance not enough for either road to buy a bond with	1,082 85	
		$88,458 45	$88,458 45

From the above it will be seen that $82,540.95 invested, with the accruing interest thereon, has purchased bonds amounting to $109,750, which pays an annual interest of $6,417.50, or 7¾ per cent. on the investment up to this time.

Extract from Message of Gov. Isham G. Harris, Oct. 4, 1859, Pub. Doc. Tenn. Legislature, 1859-60, pp. 109, 110, 111.

THE LIABILITIES OF THE STATE.

On account of bonds loaned to Internal Improvement Companies, are as follows, to wit:

6 per cent. bonds of the State, interest payable semi-annually, loaned to Railroad Companies	$10,348,000 00	
6 per cent. Bonds of the State loaned to Turnpike Companies	57,000 00	
6 per cent. Bonds of the State loaned to Agricultural Bureau	30,000 00	
Total amount of Bonds loaned.		$10,435,000 00
Bonds of Internal Improvement Companies, the payment of the principal and interest of which is		

guaranteed by the State, are as follows, to wit:		
The Bonds of Railroad Companies........	2,014,000 00	
The Bonds of the City of Memphis for the benefit of Memphis and Little Rock Railroad Co.......	350,000 00	
Total amount of endorsed bonds......		$2,364,000 00
Total present liabilities of the State, exclusive of actual indebtedness		$12,799,000 00
Add actual debt of the State..............		3,844,606 66
Which makes the total liabilities of the State of every character..............		$16,643,606 66

As most of the Internal Improvements to which the aid of the State is pledged by existing laws are completed, or far advanced towards completion, it is confidently believed that the prospective liabilities of the State in aid of those works will not far exceed three millions of dollars.

The indomitable energy and enterprise of our people, and the very liberal policy pursued by the State government, have secured to the State a splendid system of Railroads and Turnpikes, which give to every section of the Commonwealth easy access to the markets of the world.

It is gratifying that I am able to state to you that up to this time our Railroad Companies have paid each installment of interest upon their State bonds promptly at maturity. The fact that they have been able to do so, through a period of commercial revulsion and general financial derangement throughout the whole country, while most of their roads were in progress of construction, with only short and disconnected lines in operation, necessarily earning very little compared with what their earnings must be when completed and important commercial connections are formed, and through trade established, encourage the confident belief that now, as the various roads are being completed, penetrating every commercial locality within the Atlantic States, greatly increasing their business and profits, that they will in future be able to pay, as they have done heretofore, all of their liabilities promptly as they fall due.

The act of 1856, ch. 120, requires all Railroad Companies, which have received the aid of the State, either by the loan or endorsement of bonds, at the expiration of five years from the date of issuance, and annually thereafter, to pay into the treasury of the State a sinking fund of two per cent. upon the amount of said bonds, and makes it the duty of the Governor, Comptroller, and President of the Bank of Tennessee, as a Board of Sinking Fund Commissioners, to invest said fund in six per cent. bonds of the State, and annually re-invest the accruing interest, &c.

The first instalment of this fund fell due in 1858 since which time we have collected from the various Companies $82,840.95, which we have invested, with the interest accruing on the same, in the six per cent. bonds of the State, and those endorsed by the State, amounting in the aggregate to $109,750, having purchased said bonds at the current rate of discount; upon which we will hereafter collect an interest of $6,417.50 annually.

These bonds are deposited in the Bank of Tennessee, and the receipt of the President of the Bank for them is on file in the Comptroller's office.

The Commissioners have deemed it proper to keep the account of each Company separate, and to invest the funds of each for its own benefit. For a statement of their various accounts you are referred to the Comptroller's report.

The time fixed by the act referred to for the payment of this fund is, "*at the expiration of five years from the date of issuance or endorsement.*"

The general internal improvement act requires all bonds to bear date the 1st day of January of the year in which they are issued, under which all bonds issued within the year must bear the same date, though, in point of fact, portions of them are being issued and delivered to the companies every month in the year.

To avoid the necessity of frequent settlements with the various companies, and the collection of sums too small for investment in a bond, and inasmuch as the bonds all bear date the first day of January, I have fixed that as the day upon which the annual installment is due and payable. Some of the companies contend with plausibility, if not, indeed, correctly, that the first installment of the sinking fund upon each separate lot of bonds received by them, falls due five years from the day upon which the bonds were received.

If this be the proper construction of the act, it imposes the necessity of a number of settlements with each company every year, necessarily resulting in the collection of a small portion of this fund each settlement, and balances too small for investment, thus produced, lying idle in the hands of the Commissioners, to the injury of the company.

I, therefore, respectfully recommend the passage of a law fixing a day upon which the entire sinking fund of each year shall be paid. This will obviate the necessity of more than one settlement with each company annually, and secure the collection of sums sufficiently large for investment.

If the companies continue to pay their sinking fund as they have done heretofore, of which I have no doubt, the present mode of investment will extinguish the entire railroad debt of the State before maturity.

It is to be regretted, however, that notwithstanding the entire success of our internal improvement enterprises thus far, and the fact that the interest upon our bonds, and the bonds themselves as they have matured, have been in every instance punctually paid, yet Tennessee bonds are selling in the market at a discount of near ten per cent., owing in a great measure, as I believe, to the large number of them thrown upon the market, which has a tendency to shock the confidence of capitalists who know the extent of our liabilities, and know very little of our immense resources. And the manner in which they are but too frequently sold by inexperienced holders who know little or nothing of the stock market, at just such prices as they will command upon forced sale, is well calculated to depreciate the credit of the State, and has unquestionably had that effect to some extent.

In view of which facts I cannot too earnestly recommend that the liabilities of the State be not increased.

PUBLIC ACTS 1859-60, CH. 93, P. 90, PASSED MARCH 20, 1860.

AN ACT to provide for the equalization and investment of the Sinking Fund on the Bonds issued to, or endorsed for Railroads in this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the money, or the bonds that have heretofore, or may be paid by cities or railroad companies in this State, to the Sinking Fund Commissioners, by the 1st day of January, 1860, together with the accruing interest thereon, to that date, shall be passed directly to the credit of the party having so paid the same, and be a release to said party for that amount on the debt due by them to the State of Tennessee.

SEC. 2. Said bonds shall all be canceled by said Commissioners; and if endorsed bonds of any railroad company, shall be canceled as hereinafter provided, for the cancellation of the State bonds, and shall be delivered over to said company or corporation, taking the Presidents of said company, or the officer's of said company receipt for the same, which receipt shall be filed, and a copy of the same placed upon a book, which the said Commissioners shall keep for that purpose. If State bonds, they shall be canceled, and filed in the office of the Secretary of State, as hereinafter provided.

SEC. 3. That after the first day of January, 1860, all railroad companies, or city corporations, who have or may hereafter receive the bonds of the State, or its endorsement of their own bonds, under the general internal improvement law of this State, or any other law, shall be required to pay two and one-half per cent. per annum, as a sinking fund, on the amount of the bonds so issued or endorsed by the State for said company or corporation, to be paid in equal instalments, on the first days of April and October, five years after the date of said bonds, and annually thereafter.

Sec. 4. All bonds issued during any one year, shall be dated on the first day of January of that year.

Sec. 5. Said companies or corporations may pay said sinking fund in cash, or in the like character of bonds, that may have been issued or endorsed by the State for said company in their face or par value.

Sec. 6. If paid in money, the Commissioners shall invest it immediately in the bonds of the State, and shall have the same canceled and filed as heretofore provided. Such bonds are to be of the same character as those issued to such company or corporation.

Sec. 7. The sinking fund when paid, in all cases shall be passed directly to the credit of said company or corporation, and be a release to said company or corporation from that amount due by them to the State. The Commissioners shall issue a receipt to each company or corporation for such payment, retaining a duplicate in a well bound book, kept for that purpose.

Sec. 8. Each and every railroad company or city corporation shall provide the interest semi-annually as now provided by law, on the amount of bonds unpaid at the time said interest falls due, and not on the original amount issued to, or endorsed by the State for said company as heretofore provided.

Sec. 9. The Comptroller of the State shall keep a regular account against each company or corporation, charging them with the amount of bonds originally issued to or endorsed for, said company or corporation, by the State, and crediting them by the amount of sinking fund paid, and shall furnish the Treasurer of the State a statement of the amount due by each company or corporation, on the first of June and December of each year, that he may know how much interest each company or corporation has to pay.

Sec. 10. The Commissioners of the Sinking Fund shall cancel all bonds of the State as soon as paid in, or purchased, by cutting out the Governor's and Secretary of State's names, and so defacing each coupon, that it cannot by possibility be used or circulated, and shall file the same in the Secretary of State's office.

Sec. 11. This law shall be in full force from and after passage, and shall repeal all laws in conflict with it, but shall not be so construed as *otherwise* to affect any law on the subject of the sinking fund, or the payment of interest due on State or endorsed bonds.

W. C. WHITTHORNE,
Speaker of the House of Representatives.
TAZ. W, NEWMAN,
Speaker of the Senate.

MESSAGE OF GOV. ISHAM G. HARRIS, JAN. 16, 1861, JOURNALS, EXTRA SESSION 1861, P. 57.

To the Gentlemen of the Senate and
House of Representatives:

The sinking fund act of 1855–6, contemplating the investment of the fund, as paid in, in the internal improvement bonds of the State, at par, by which means the entire railroad debt of the State would have been extinguished before maturity. The act of 1859–60, repealed the above recited act, was intended, and will accomplish the same result.

But the Commissioners have invested the fund paid in under the act of 1855–6 in bonds at a discount of from eight to twenty-five per cent., by which much more of the debt has already been extinguished than the act contemplated. In view of which fact, and the failure of crops, derangement and prostration of commerce, and general financial distress in all the departments of business, it is certainly a hardship upon the railroad companies to be compelled to pay, in these times of universal pecuniary distress, any part of the principal of a debt which does not fall due for thirty years.

I therefore respectfully recommend the passage of an act suspending the operation of the sinking fund law for the term of one year from this date, by which time another crop will have been made, and it may be reasonably hoped that these companies will be in good condition to pay their sinking fund without material inconvenience or injury, and if the law is rigidly enforced after this suspension, as it has been heretofore, it will still extinguish the debt by maturity.

Having learned from a petition of the people of the city of Nashville, and as one of the Representatives of the county of Davidson, that the passage of an act authorizing the corporation of the city of

Nashville to endorse certain income bonds of the Edgefield and Kentucky Railroad company, is desired by them and important to said company, at their instance I submit the question to your discretion.

The general internal improvement law makes it the duty of the Governor to appoint "Receivers to take charge of the roads and effects" of railroad companies in certain contingencies, but the law fixes no salary or compensation for such service.

The fact that the duties and responsibilities of the Receiver are much greater on some roads than on others, requires that the compensation of Receiver in each case to depend to a great extent upon the character of duties and amount of responsibilities imposed upon him.

I therefore recommend that you pass an act fixing the salary of Receivers, or conferring upon some officer of the Government the power of fixing the compensation in each case.

Regretting, as I do, the necessity of multiplying the subjects of legislation at an extra session, I have carefully avoided opening the fruitful field of internal improvements, and confined myself strictly to the Sinking Fund law, the salary of Railroad Receivers, and authorizing the corporation of Nashville to endorse the income bonds of the Edgefield and Kentucky Railroad Company, if it should see proper to do so; which questions are respectfully submitted to your consideration.

ISHAM G. HARRIS.

EXTRACT FROM REPORT OF J. T. DUNLAP, COMPTROLLER, JAN. 22, 1861, JOURNALS OF EXTRA SESSION OF 1861, PP. 146, 147.

But should there be a deficiency of revenue to meet existing and current engagements of the State before the next meeting of the Legislature the Bank of Tennessee, by a sort of common law, and as the State is usually a heavy depositor, always honors the checks of the Treasurer, and has assured the Executive officers it will continue to do so. If, however, extraordinary expenditures or appropriations are made during the present session, the Legislature will, no doubt, levy a tax or order a loan, or provide other means to meet them.

The Edgefield and Kentucky and Winchester and Alabama, two short railroads, unfinished in their connections or to their original termini, have failed to meet their January interest. They are now in the hands of Receivers, appointed by the Governor, for the benefit of the State. Under section 1106 of the Code, I drew upon the Treasurer to pay the interest for each of them; for the the first, including exchange, $23,180 15, and for the last, also including exchange, $13,359 90. I have also been notified that the January interest has not been met upon the $350,000 of Memphis City Bonds, endorsed by the State for the benefit of the Memphis and Little Rock Railroad. I have directed the interest upon them to be paid in the city of New York; interest and exchange amounting to $10,605.

If all the railroads in the State fail to meet their next July interest, it is not presumed the Treasury would have the means to meet it; but if so improbable a contingency occur, the State would take charge of the roads and I should draw, under section 1106, upon the Treasury, and the Bank of Tennessee, without doubt, would furnish the money, trusting to the Legislature in October, to protect it and the honor of the State. The interest due next July upon $12,193,000 of bonds loaned to railroads, will be $365,790 ; if to this be added the interest due then upon the $2,364,000 of bonds endorsed by the State for railroads, the whole amount would be $436,710. I have heard no apprehensions expressed that the longer and finished roads would fail to meet their interest, but should they do so, I do not doubt the State would promptly pay it.

Very respectfully,

J. T. DUNLAP.

ACTS OF 1ST EXTRA SESSION OF 1861, CH. 10, P. 25, PASSED FEBRUARY 1, 1861.

AN ACT for the Relief of Railroad Companies, Receivers and others.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That so much of the act of March 20th, 1860, Chapter 93, as requires Railroad Companies to pay annually two and one-half per cent. on the amount of the bonds issued or endorsed by the State, as a sinking fund, be, and the same is hereby suspended for the term of one year from and after the passage of this bill.

SEC. 2. *Be it also enacted,* That the Governor of the State be, and is hereby authorized and required to pay the Receivers who have taken or may take charge of the roads and effects, such salaries as he may deem just and fair ; *Provided,* That the same shall not exceed the salary paid heretofore to the Superintendent of said road by the President and Directors thereof, and upon his order the Comptroller shall issue his warrant to the Receivers for such amounts—said salary being made payable quarterly.

ACTS OF 2ND EXTRA SESSION OF 1861, CH. 7, P. 36 PASSED MAY 7, 1861.

AN ACT to amend the Railroad Law.

Be it enacted by the General Assembly of the State of Tennessee, That section 1101 of the Code, and acts amendatory thereto, be so amended as to make it discretionary with the Governor to appoint Receiver as therein provided, or to permit the affairs of the several Railroads of the State to remain in the hands and under the management of the company owning the same, as the interest of the State may suggest.

Provided, however, That no lien of the State on the assets, property, and franchises of said company shall be affected thereby.

This act to take effect from and after its passage.

W. C. WHITTHORNE,
Speaker of the House of Representatives.
B. L. STOVALL,
Speaker of the Senate.

ACTS OF 2ND EXTRA SESSION OF 1861, CH. 25, P. 51, PASSED JULY 1, 1861.

AN ACT to authorize the Banks of Tennessee to receive and pay out the Treasury Notes of the Confederate States, and for other purposes.

SEC. 11. *Be it further enacted*, That the interest on all bonds of the State, or upon which the State may be liable, held by the citizens or corporations of friendly powers, shall be paid at Nashville, Charleston or New Orleans, at the discretion of the Comptroller of the State; and it shall be the duty of the various railroad companies to pay the interest required of them into the hands of the Treasurer; *Provided*, Said bonds were *bona fide*, held and owned by such citizens and corporations on the 15th day of April, 1861, and that fact is made to appear to the satisfaction of the Comptroller of the State by the affidavit of the party demanding payment, and proof of the fact, if desired by the Comptroller, or upon the establishment of the fact in such other manner as shall be satisfactory to said officer. The Comptroller shall advertise at which of said points the interest on said bonds will be met; *Provided further*, If any of said bonds shall be owned *bona fide* by a citizen of the Confederate States, and the same is held by a guardian or agent in the non-slaveholding States, the interest shall be paid as provided in this section; *Provided*, The same shall be paid to the owner of said bonds, or to a duly authorized agent, attorney or guardian, being a citizen of the Confederate States.

Extract from Report of J. T. Dunlap, Comptroller, October, 1861, PP. iv, vii and viii.

There is but one contingency now thought of that would demand an increased taxation upon the property of the State. If the railroads fail to meet the interest upon the bonds loaned to or endorsed for them, the State must pay. In ordinary times, there is no difficulty in their meeting promptly their interest and sinking fund. With many of the larger and finished roads there is none now. The Nashville and Chattanooga,* and some other roads, were reported to the Governor, not from inability to pay, but because, under the act of July 1, 1861, the interest was not allowed to be paid to citizens or corporations of the non-slaveholding States of the United States, and they felt they had a right to use their own money until it was needed for the payment of their own debts when presented. I mention this, not to justify the position they assume, but to show their ability to pay. It is probable the roads will pay the State as much interest upon their bonds as will be demanded during the existence of the war, and at its close the resumption of their ordinary business may yield profits corresponding to their wants.

RAILROAD RECEIVERS.

The salary of these officers, under the present law, is paid out of the Treasury. It occurs to me it ought to be paid out of the profits of the road before they are paid into the Treasury, as other officers and employes are paid. Unless this be done, the State, and not the road, will, upon final settlement, pay the salary of the Receivers while the road continued in the possession of the State. The law requires the road to refund the interest paid by the State, but is silent as to the salaries being refunded. This is comparatively a small matter now, but, if the present derangement in trade and commerce continues, it may be of some magnitude eventually.

---

* BANK OF TENNESSEE,
Nashville, Tenn., Oct. 16, 1861.

Hon. JAS. T. DUNLAP, Comptroller, &c.:

The Nashville and Chattanooga Railroad Company have had on deposit in this Bank, an average of seventy-five thousand dollars for the past four months, having at no time during that period, less than forty-five thousand dollars at their credit; and are now, and were on the 15th June last, the owners of one hundred and thirty-seven of the one hundred and fifty Bonds issued by the State of Tennessee for their benefit; the July, 1861, coupons, on which have never been taken off, as the Bonds are in New York. The company would, notwithstanding the Bonds were in New York, have paid their interest, but lost sight of the fact that the collection had to be made through the Treasurer, instead of the Bank of Tennessee, as heretofore.

Respectfully, &c.;
JOHN A. FISHER,
Cashier.

INEREST ON STATE BONDS.

The act of July 1, 1861, suspends the payment of interest upon our bonds to citizens and corporations of the non-slaveholding States of the United States of America, and to the purchasers of bonds (from these parties) who did not acquire them on or before the 15th of April, 1861. I have adhered rigidly to the law, though its hardship is manifest upon those who purchased between the two dates, the law itself, as to that period, being retrospective; and, if not unconstitutional, was catching in a trap those Southerners who were exchanging northern property for, or vesting northern balances in State securities. They could not reasonably anticipate such action, as Tennessee had not then, as she has since done, shaken off the Lincoln government.

Until the passage of the law of July 1, the railroads were required to pay the interest upon State bonds loaned to them into the Bank of Tennessee fifteen days before it was due; the Bank was then required, through its agents in New York, to pay it out to the bondholers, charging exchange and commissions for so doing. Under the present law the roads pay the interest in the Treasury, and to the Treasury pays it out. There was adequate reason for this change, which has thrown an immense labor upon the Comptroller and Treasurer. The bank can pay a coupon like any other check, but every payment by the Treasury requires a warrant from the Comptrollet, which is entered upon one book when issued, and another when paid; and, if all the coupons were paid separately, there would be, semi-annually, about 30,000 entries in the Comptroller's office, and half as many in the Treasurer's, an amount of labor almost impracticable to perform, all of which may be avoided by restoring the original law.

EXTRACTS FROM MESSAGE OF GOV. WM. G. BROWNLOW, APRIL 6, 1865, LAWS OF TENN., 1865, PP. 7, 8, 11, 12.

The State debt, as reported by the Comptroller, in October, 1861, is said to be $6,896,606.66, and this demands your attention. This includes $3,000,000 of eight per cent. bonds for the "defence of the State," which has recently been discarded by the people at the ballot box. This unauthorized and most unjust indebtedness, repudiated, leaves the indebtedness of the State properly, $3,896,606.66, at an annual interest of $212,388.25. The interest is presumed to have been paid on the first of January, 1861. It is not known how much has since been paid, if any. The bonds will show, either by the endorsements or the absence of the coupons. Besides this debt, the State has bonds for internal improvement purposes, and has endorsed the bonds of railroad companies to the amount of $16,211,000. For these the State is ultimately liable upon the failure of the companies. These bonds it is believed the State will have to provide for, to preserve its credit, making an aggregate indebtedness of

$20,005,606.66, and the annual interest $1,185,048.25. Of this debt proper, $66,666.66 matured in 1861; $61,250 in 1862; $177,750 in 1863; and $58,500 in 1864—in all, $366,166.66, at once to be provided for. The Comptroller states that the bonds maturing in 1861 were "taken possession of and held by the State, subject to adjustment at the end of the war." Besides these, the State held bonds, mostly her own, as follows: The Spencer T. Hunt Fund, 6; The Railroad Sinking Fund, 161; deposited by the free banks, 341; deposited by foreign insurance companies, 80: and in all, 588 bonds. These bonds, held in trust, were carried away, it is believed, with the valuables of the State Treasury, by the State officers, who ingloriously fled on the approach of the National flag. Double payment can probably be avoided. Evidence must be in existence by which they can be identified. The notorious condition of our State affairs has been sufficient to put dealers upon their guard. So that if any of the bonds have been fraudulently sold, payment to the present holders may be justly stopped. Furthermore, it will be well to consider how far it is your duty as agents of the State, not only to pay the bonds held by those who have been actively engaged in the rebellion to overthrow the government, whether held by them or parties who may seek to conceal them for the benefit of the rebels, as they will likely do, I advise that you adopt measures to prevent their payment. The bonds can in no event compensate for the loss the disloyal holders have occasioned the State. The justice of holding them responsible in this way, it is believed, cannot be successfully controverted.

. . . .

As you are aware, upon the approach of the National forces, and their occupation of our country, the Government took possession of our railroads, in most of which the State is a large stockholder. The State is deeply interested in her internal improvements as she has endorsed bonds at the rate of ten thousand dollars per mile, for nearly all the railroads in Tennessee. And as most of these bonds are held by guardians, for the benefit in many instances of minors and widows, I think it nothing more than simple justice to pay them the interest already due them.

The Nashville and Chattanooga Railroad was taken possession of by the Federal authorities on the 7th of March, 1862, and has been held and used ever since, and, regarded as a military necessity; it was proper and right. Presuming the Government to have kept the account strictly, she is now about ready to make a settlement. My information is that certain officers of the company visited Washington on two different occasions, for the purpose of obtaining a settlement with the Quartermaster General. They failed in their efforts, though the President of the United States, who was present on both occasions, expressed his views verbally as favoring the payment of the company for the use of the road. You should now call upon the proper authorities at Washington for payment to this and other companies, requiring the money received to be applied to the payment of interest on their bonds. The amount endorsed by the State for the Nashville and Chattanooga Railroad Company is $1,535,000, and the interest accrued thereon is now nearly $300,000. It is believed that upon a just settlement the Government will owe the company largely over that amount. This road cost the company $3,846,00, including its equipments and depots.

The other roads in the State are similarly situated, and demand your attention. Those officers of roads and stockholders who fled South, carrying with them the rolling stock and funds, should be held to a strict accountability, and their property and stock should be made, in part, to atone for these losses to the State and country. The case of the East Tennessee and Georgia Railroad, and its faithless President, requires our special attention.

It is believed the time has now come for the companies again to use their roads—for the Government, if need be, under even a Military Superintendent thereby effecting a vas saving to the Government, asking only the same pay for freights and passengers they are now paying to the Louisville and Nashville Railroad Company. As this war is for the benefit of the whole nation, it is not believed that the General Government intends that Tennessee shall pay more than her just proportion of the war debt.

Your attention is called to the fact that the Louisville and Nashville Railroad Company is running a portion of that road in this State, say about sixty miles, with another branch from Bowling Green to Clarksville, and for all that portion of road in our State, the Government pays the Kentucky company, as if the road were in any other loyal State. The information I have is to the effect that the Kentucky company treats with indifference the claims of Tennessee upon that road. It is your duty to let that company know, in decided, but respectful terms, what your rights are, and that you dare assert and maintain them.

Acts of 1865, P. 150, Resolution No. 38, Adopted May 5, 1865.

Joint Resolution appointing Commissioners to settle with the Louisville and Nashville Railroad.

Resolved, by the General Assembly of the State of Tennessee, That the Comptroller, Secretary of State, Attorney-General of the State, and Commissioner of Public Roads of the State of Tennessee, be and are hereby constituted Commissioners on behalf of the State of Tennessee, to meet and make a settlement with the Louisville and Nashville Railroad Company, and make a report thereof to this session of the General Assembly, if practicable, if not, to the next session of the same.

Be it further resolved, That if such settlement cannot be made by said Commissioners, with said Louisville and Nashville Railroad, as shall be satisfactory to them, the fact shall be made known to the Governor of the State, and he may direct the Attorney-General of the State to institute such legal proceedings against said company as may be necessary to protect the interests of the State.

WILLIAM HEISKELL,
Speaker of the House of Representatives,
SAMUEL R. RODGERS,
Speaker of the Senate.

Settlement with Louisville and Nashville Railroad Company. Appendix 1865-6, pp. 223, 4 and 5.

Nashville, Tenn., Nov. 18, 1865.

To the General Assembly of the State of Tennessee:

In obedience to a resolution of your honorable body, entitled "A resolution to appoint Commismissioners to settle with the Louisville and Nashville Railroad Company," adopted May 5th, 1865, the undersigned, as Commissioners on behalf of the State, have met the Hon. James Guthrie, President, and Mr. Willis Ranney, Secretary of said Company, at the State Capitol, for the purpose contemplated in the resolution.

The memorial upon which said resolution is founded, and which, it is said, sets forth the various matters of settlement, has not been furnished to the Commissioners, but has been mislaid in one house or the other of the Legislature. But from a statement of its contents by Mr. Guthrie, your Commissioners are of opinion that the only matter legitimately referred to them, is the indebtedness of said Company to the State on account of aid furnished to the Company in the shape of bonds loaned to them, and the interest thereon.

It appears from the books of the Secretary of State, that said Company have, at different times, received the sum of five hundred and sixty thousand five hundred dollars ($560,500,) of the bonds of the State, in aid of the construction of their road and the bridge across the Cumberland, at Nashville. It appears from the books of the Comptroller, that the interest on these bonds has been paid up to July 1st, 1861. The interest accruing since that time amounts to one hundred and forty-seven thousand one hundred and thirty-one dollars and twenty-five cents ($147,131.25,) making the entire indebtedness of said Railroad Company to the State, seven hundred and seven thousand six hundred and thirty-one dollars and twenty-five cents ($707,631.25). The principal, Messrs. Guthrie and Ranney, on behalf of said Company, proposed to pay over in straight six per cent. coupon bonds of the State, and the interest in coupons of the bonds of the State now due.

Believing it to be manifestly for the interest of the State to call in this large installment of its indebtedness, and, believing, moreover, that the Company had a right, under the law regulating the Sinking Fund, to pay off its entire indebtedness in the bonds of the State, your Commissioners accepted the proposal, and executed to the Commissioners on behalf of the Company, the following receipt, a duplicate of which is retained in the office of the Comptroller:

"NASHVILLE, TENN., Nov. 17, 1865.

"We, the undersigned, Commissioners appointed by the General Assembly of the State of Tennessee by Joint Resolution, adopted May 5th, 1865, 'To meet and make settlement on behalf of the State with the Louisville and Nashville Railroad Company,' have this day met and settled with the Hon. James Guthrie, President, and Willis Ranney, Secretary of said Company, and have received from them five hundred and fifty-one coupon bonds of the State, for one thousand dollars each ($551,000,) nine thousand five hundred dollars ($9,500,) in coupons of the bonds of the State now due; also, one hundred and forty-seven thousand one hundred and thirty-one dollars and twenty-five cents ($147,131.25,) in coupons of the bonds of the State, in payment of interest due from said Company, accruing since July 1st, 1861—making in all seven hundred and seven thousand six hundred and thirty-one dollars and twenty-five cents ($767,631.25); being the total indebtedness of said Company to the State of Tennessee, on account of the bonds of the State, received in aid of the construction of said road, and the bridge across the Cumberland river.

"Given under our hands, this 17th day of November, 1865.

A. J. Fletcher, Sec'y of State.
S. W. Hatchett, Comptroller.
T. H. Coldwell, Att'y General.
A. W. Hawkins, Com. of Roads."

The bonds and coupons mentioned in said receipt are deposited with the Comptroller of the State, and a list of the numbers and amount of the coupons is filed in the office of the Secretary of State.

From the statement of Mr. Guthrie, your Commissioners are of opinion that the other matters contained in the memorial, grow out of the consolidation of said road with the Edgefield and Kentucky Road, by the acts of December 1st, 1855, and December 3d, 1859, and should be settled by the two companies, unless the latter road should fall permanently into the hands of the State. At any rate, the adjustment of these matters have been waived for the present by consent.

The last instalment of interest, amounting to sixteen thousand eight hundred and fifteen dollars ($16,815) was paid by said company into the Bank of Tennessee on the 9th day of May, 1861, as appears from their receipt. This was two days after the adoption of the Secession Ordinance; but as the law required the payment to be made to the bank, and as your Commissioners cannot see that the status of the bank was changed at that early day, they consider the payment legal. The fact that the fund was lost by the bad faith of the bank, does not, in the opinion of your Commissioners, furnish any just or legal grounds for recourse on the company.

Respectively submitted,

A. J. Fletcher, Sec'y of State.
S. W. Hatchett, Comptroller.
Thos. H. Coldwell, Att'y Gen'l.
A. W. Hawkins, Com. Roads.

ACTS OF 1855-6, P. 422, RESOLUTION NO. 41.
ADOPTED NOV. 8, 1865.

JOINT RESOLUTION Appointing a Committee to examine into the condition of the Sinking Fund.

Resolved by the General Assembly of the State of Tennessee, That a committee of two be appointed on the part of the Senate, and four on the part of the House, to examine into the condition of the Sinking Fund, and ascertain what railroads have paid, and what amount, and if they have due credit; also, that they be authorized to cancel all bonds of the State that have been paid in by Railroads; that the committee be authorized to send for persons and papers.

WILLIAM HEISKELL,
Speaker of the House of Representatives.

JOSHUA B. FRIERSON,
Speaker of the House.

PUBLIC ACTS OF 1865–6, CH. 9, P. 10, PASSED NOV. 23, 1865.

AN ACT to amend an Act entitled "An Act to establish a System of Internal Improvement in the State," passed the 11th of February, 1862.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the act aforesaid be so amended that the Governor of this State be authorized and instructed to issue the six per cent. coupon bonds of the State, similar in character in every respect to the bonds issued under the act that this is intended to amend, and maturing at the same time, to an amount sufficient to pay off all the bonds and interest past due, as well as that to fall due January 1st, 1866, or on any bonds that may fall due during the year 1867 issued or endorsed by the State, that were issued or endorsed previous to the so-called Act of Secession, passed the 6th day of May, 1861.

SEC. 2. *Be it enacted*, That said bonds shall be dated the 1st day of January, 1866, and be payable on the first day of January, 1892.

SEC. 3. *Be it enacted*, That said bonds shall in no event be sold, exchanged, or negotiated at less than their par value; but they may be exchanged for the interest coupon bonds hereby provided to be paid, estimating each at their par value.

SEC. 4. *Be it enacted*, That the amount of interest now due, or that may become due by January 1st, 1866, by any railroad company to the State on bonds issued to or endorsed for said company, shall be charged up to said company, on the same terms and conditions of the original loan under the law this is intended to amend, and the State shall have the liens upon each of said roads, their franchises and property, for the prompt and faithful payment of the principal and interest of the bonds hereby authorized to be issued to pay the interest on the bonds said company should have paid interest on, or it has under the law this is intended to amend, for the bonds issued under that law.

SEC. 5. *Be it enacted*, That the several railroad companies receiving aid under this act, shall pay the interest on said bonds, as it matures, in the same manner and under the same rules, regulations and restrictions as they are now required to pay on bonds issued or endorsed for them under the act this is intended to amend, commencing the payment of said interest on the 15th day of June, 1866.

SEC. 6. *Be it enacted*, That the law now requiring all railroad companies in this State to pay into the Treasury 2½ per cent. per annum, as a sinking fund, on the amount of their indebtedness to the State, be, and the same is hereby suspended until January 1st, 1867, and said companies are relieved from the payment of the sinking fund now past due under said law.

SEC. 7. *Be it enacted*, That each and every railroad company in this State, who have or may receive aid under this act, or the act this is intended to amend, or any amendment thereto, shall pay to the Treasurer of the State during the year 1867, four per cent. on the amount of its indebtedness to the State, as a sinking fund on said debt, to be paid in the bonds of the State in a like character to those issued or endorsed for said company with the coupons on the same that have not matured, said payment to be made semi-annually on the first of April and October, and a like amount every year thereafter until the whole of their indebtedness is discharged.

SEC. 8. *Be it enacted*, That the Governor of the State shall, through the proper State officers, or by himself, or through such other agents as he may appoint for the purpose, have the bonds hereby provided to be issued, negotiated and the proceeds of the same applied to the payment of the interest now due, or to fall due January 1st, 1866, on all bonds issued or endorsed by the State, hereinbefore provided, or exchange said bonds with the holders of said coupons, so as to pay and liquidate said interest.

SEC. 9. *Be it further enacted*, That the expense of issuing and negotiating said bonds shall be paid out of any money now in the Treasury not otherwise appropriated, and the same shall be collected from the amount issued for the benefit of said companies pro rata.

SEC. 10. *Be it enacted*, That any railroad company receiving aid under this act or the act this is intended to amend, or any amendment thereto, who shall discriminate in their freight or passenger tariff against the business of any city or town or place in this State, or carry freight lower in one direction than another, or refuse to give the citizens of this State equal facilities for transporting their freight to or from any point they may desire to ship to or from with the citizens of any other State, whether the act be committed within the limits of this State or not, shall, upon conviction, be fined in the sum of not less than one thousand dollars nor over five thousand dollars for each and every offense, the same to be collected as other fines and forfeitures are collected, one half of the same to go to the State, and the other half to the party aggrieved.

SEC. 11. *Be it enacted*, That when the principal officers of the company do not reside in and have a permanent office in this State, it shall be competent and lawful to serve notice on any agent of said company who does reside in the State, in any suit brought under the provisions of this act.

WILLIAM HEISKELL,
Speaker of the House of Representatives.
JOSHUA B. FRIERSON,
Speaker of the Senate.

PUBLIC ACTS OF 1865–6, CH. 24, P. 33. PASSED JAN. 18, 1866.

AN ACT to amend an act to establish a system of Internal Improvement, passed 11th February, 1852.

WHEREAS, The Memphis and Ohio Railroad, the Memphis, Clarksville and Louisville Railroad, the Edgefield and Kentucky Railroad, the Manchester and McMinnville Railroad, the Nashville and Northwestern Railroad, the Mississippi and Tennessee Railroad, the East Tennessee and Virginia Railroad, the Knoxville and Kentucky Railroad, the Winchester and Alabama Railroad, and the East Tennessee and Georgia Railroad, are all out of repair; the bridges and trestles on said road have been destroyed, and the companies are unable to put them in running order, and the State has a large interest in said roads, and it is to the interest of the State, and the people of the State, that the said roads should remain under their control, and that they should be put in running order; therefore, SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor of the State be authorized and instructed to issue the bonds of the State bearing six per cent. interest, with coupons attached, similar in character in every respect, to the bonds issued under the act this is intended to amend, and maturing as hereinafter provided, in the following amounts to the following Railroad Companies, or receivers of such roads, appointed by the Governor, under the laws of this State, to-wit:

To the Memphis and Ohio Railroad Company, $300,000; to the Memphis, Clarksville and Louisville Railroad Company, $400,000; to the Edgefield and Kentucky Railroad, $115,000; to the Manchester and McMinnville Railroad Company, $346,000; to the Nashville and Northwestern Railroad Company, $300,000; to the Mississippi and Tennessee Railroad Company, $50,000; to the East Tennessee and Virginia Railroad Company, $300,000; to the Knoxville and Kentucky Railroad Company, $250,000; to the Winchester and Alabama Railroad Company, $372,000; to the East Tennessee and Georgia Railroad Company, $250,000; to the Mississippi Central Railroad Company, $200,000; to the Memphis and Charleston Railroad, $300,000; and to the Rogersville and Jefferson Railroad, $100,000; which bonds shall bear date January 1st, 1866, and be payable the 1st of January, 1892.

SEC. 2. *Be it further enacted*, That the said bonds shall, in no event, be sold or exchanged at less than their par value.

SEC. 3. *Be it further enacted*, That the proceeds of said bonds shall alone be used in building the bridges and repairing said roads, and putting them in running order.

SEC. 4. *Be it further enacted*, That each of said Railroads to which relief is granted by this act, shall pay to the Treasurer of the State, as a sinking fund, four per cent. on the amount of its indebtedness under this act, as also the interest on said bonds. The sinking fund to commence the first of January, 1867, which shall constitute a fund for the payment of the bonds granted by this act to said roads, and the said payment shall be made on the first of January of each and every year, and the State hereby reserves a lien on all the profits of said roads for the money hereby advanced for the repairing of the same, which the State shall have the right to enforce, if the said companies should fail to pay the four per cent. and interest as now provided by this act, and which shall be enforced as now provided by law in the Internal Improvement act of this State, and which this act is intended to amend.

SEC. 5. *Be it further enacted*, That bonds of the amount of one hundred and twenty-five thousand dollars be issued to the Nashville and Chattanooga Railroad Company, for the completion of the branch road from Bridgeport, Alabama, to Jasper, Tennessee, upon the same terms as provided by the foregoing act.

SEC. 6. *Be it further enacted*, That the time of ten years be extended to all railroad companies chartered and organized in this State, to complete their roads, and the said roads shall have all the privileges and immunities guaranteed by their respective charters, and the Internal Improvement laws of this State.

SEC. 7. *Be it further enacted*, That the sum of $75,000 be, and the same is hereby, appropriated to the Southern Central Railroad, for the purpose of assisting in paying for their bridge.

SEC. 8. *Be it further enacted*, That the lien retained or declared in the fourth section of this act, is hereby declared cumulative of and in addition to the lien declared in the act of 1852, which this is intended to amend, which lien is hereby declared to extend to, and cover the money or bonds to be advanced to said roads under this act.

SEC. 9. *Be it further enacted*, That this act shall take effect from and after its passage.

WILLIAM HEISKELL,
Speaker of the House of Representatives.
JOSHUA B. FRIERSON,
Speaker of the Senate.

PRIVATE ACTS 1865-6, CH. 88, P. 222. PASSED MAY 24, 1866.

AN ACT to Incorporate the Tennessee Pacific Railroad Company, and for other purposes.

SEC. 57. *Be it further enacted*, That the Governor be, and he is hereby, authorized to execute a bond for the purchase of railroad machinery, cars, and all other material purchased for the use and benefit of the Memphis, Clarksville and Louisville Railroad, and the Edgefield and Kentucky Railroad, from the United States Military Railroad Department at Nashville, of the United States.

SEC. 58. *Be it further enacted*, That the Governor of the State be authorized and instructed to issue bonds of the State, bearing six per cent. interest, with coupons attached, to the Memphis, Clarksville and Louisville Railroad Company, to the amount of one hundred thousand dollars, and the Knoxville and Kentucky Company, two hundred and fifty thousand dollars. The above appropriation to the said Memphis, Clarksville and Louisville Company to be applied to the construction of the bridge over the Cumberland river at Clarksville, and rebuilding the trestle on the line of said road, said bonds to be issued with all the restrictions, liens and provisions of the act passed January 18, 1866, to amend an act to establish a system of Internal Improvements, passed February 11, 1852.

SEC. 59. *Be it further enacted*, That bonds to the amount of one hundred and ten thousand dollars be issued to the Edgefield and Kentucky Railroad Company for the purpose of equipping said road and putting it in running order.

PUBLIC ACTS 1866–7, CH. 12, P. 11, PASSED DEC. 10, 1866.

AN ACT to amend an act passed January 18, 1866, entitled, "An Act to establish a system of Internal Improvements," passed February 11, 1852.

Whereas, The Memphis and Ohio Railroad Co., and the Mississippi and Tennesee Railroad Co. are without either passenger or freight depots at Memphis, and the former at many stations along the line of road, and also, that said roads are now much in need of from five to six locomotives each to do the business offered along their respective lines, besides owing the Government of the United States a large amount for stock bought, and in view of the fact that said roads have at all times promptly paid all interest when due, upon all bonds loaned by the State (except during the war), and that they pledge in the future as in the past, to promptly meet all interest due on bonds loaned, or that may be loaned. *And whereas*, by the additional loan asked, the roads may be put in first-class condition to do the business of the country through which they pass, to the better satisfaction of the people, besides the better protecting the interest of the State in said roads; and further, that without said additional aid asked, the road's receipts, for want of equipment be insufficient to meet current expenses of operating, pay the interest on State bonds, and the debt to the general Government. Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor of the State be authorized and directed to issue the bonds of the State bearing six per cent. interest, with coupons attached, similar in every respect to the bonds issued under the act this is intended to amend, and upon the same penalties and conditions.

To the Memphis and Ohio Railroad Company, ($200,000) two hundred thousand dollars.

To the Mississippi and Tennessee Railroad Company ($150,000) one hundred and and fifty thousand dollars.

SECTION 2. *Be it further enacted*, That the proceeds of said bonds will only be used for building depots, paying for locomotives, and the debt due the General Government.

SEC. 3. *Be it further enacted*, That the sum of three hundred thousand dollars be, and the same is hereby appropriated to the Knoxville and Charleston Railroad, known as the Rabun Gap Railroad.

To the Cincinnati, Cumberland Gap and Charleston Railroad Co., five hundred thousand dollars ($500,000).

To the East Tennessee and Virginia Railroad Co., three hundred thousand dollars ($300,000).

To the Knoxville and Kentucky Railroad Co., five hundred thousand dollars ($500,000).

To the Nashville and Northwestern R. R. Co., two hundred thousand dollars ($200,000), and to the

Winchester and Alabama R. R. Co., one hundred and fifty thousand dollars ($150,000); and that the Governor is hereby authorized to issue the bonds of the State for the same, according to the laws made and provided in similar cases.

SEC. 4. *Be it further enacted*, That bonds of the State to the amount of one hundred thousand dollars be issued to the Atlantic, Tennessee and Ohio Railroad Company for the construction and completion of the road as far as the same is situated in the county of Johnson, and State of Tenneesee. Also, that bonds of the State to the amount of one hundred and fifty thousand dollars be issued to the East Tennessee and Western North Carolina Railroad Company, for the completion of their road upon the same terms as provided by the foregoing act.

SEC. 5. *Be it further enacted*, That this act shall take effect from and after its passage.

WM. HEISKELL,
Speaker of the House of Representatives.
JOSHUA B. FRIERSON,
Speaker of the Senate.

PUBLIC ACTS 1866–7, CH. 25. P. 23, PASSED FEB. 18, 1867.

AN ACT to amend an act passed November 23, 1866, entitled "An Act to amend An Act entitled 'An Act to establish a system of Internal Improvements in the State,' passed the 11th day of February, 1852."

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the year 1867, in sections 6 and 7, in An Act passed November 23, 1865, entitled "An act to amend An Act entitled 'An Act to establish a system of Internal Improvements in the State,' passed the 11th day of February, 1852," be, and the same is hereby changed to eighteen hundred and seventy.

SEC. 2. *Be it further enacted*, That this act shall take effect from and after its passage.

J. S. MULLOY,
Speaker pro. tem. of the House of Representatives.
JOSHUA. B. FRIERSON,
Speaker of the Senate.

PUBLIC ACTS 1866–7, CH. 52, P. 142, PASSED MARCH 7, 1867.

AN ACT to amend the Charter of the Memphis & Charleston Railroad Company, and for other purposes.

WHEREAS. a large portion of the Memphis and Charleston Railroad Company's railroad was injured and destroyed by the late war, and the company, during the existence of the same, was deprived of the possession and revenues of the road; *and whereas*, since peace has been restored, the said company obtained possession of its road, and has created a floating debt on short time in order to repair the said road and put it in running order, and in the purchase of a large number of locomotives, cars and materials from the United States, and in the payment of interest on the bonds of the company heretofore issued; *and whereas*, the necessities of the creditors aforesaid require payment of their dues before the same can be realized out of the income from the road; to this intent, and for this purpose.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Memphis and Charleston Railroad Company may, and shall have the power and authority to borrow a sum, not exceeding one million of dollars, for the purpose of liqudating and discharging the liabilities mentioned in the preamble to this act; and in order to secure the payment of the same, the said company is hereby authorized and empowered to make and issue its bonds, in sums of one thousand dollars, for the sum aforesaid, payable not less than five years nor more than twenty years from date, with coupons attached, for the payment of interest semi-annually, at the rate of seven per cent. per annum.

SEC. 2. *Be it further enacted*, That in order more perfectly to secure the ultimate payment of the principal and interest of the bonds so to be issued, as aforesaid, the said company is hereby authorized and empowered to execute a second mortgage on its charter, road, works, and depots with all the stipulations and conditions necessary to accomplish the intent and meaning of this act; saving, however, and reserving, the lien heretofore created on said property, by mortgage, for the payment of the bonds therein specified, of which there are now outstanding, and unpaid, one million two hundred and ninety-four thousand dollars ; and, also, reserving to the State of Tennessee her priority of statutory, and all liens in favor of said State for any and all loans made by said State under the General Internal Improvement Law of said State, and all amendments thereto. And the manner in which said bonds and mortgages shall be made and executed, shall be prescribed by the Board of Directors of said Memphis and Charleston Railroad Company.

SEC. 3. *Be it further enacted,* That nothing in the foregoing provisions of this act shall be so construed as to deprive the State of any lien secured by mortgage or otherwise, on the entire property or effects of said Memphis and Charleston Railroad Company.

SEC. 7. *Be it further encated,* That the Governor shall appoint directors in each railroad company of this State in proportion to the amount of aid received by said company, whether the aid has been received by the issuance of bonds of the State, or endorsing bonds of the said railroad companies.

SEC. 9. *Be it further enacted,* That the Governor be, and he is hereby authorized to issue one hundred and fifty thousand dollars in bonds to the Mississippi Central Railroad, upon the same terms and conditions as the bonds were issued to the several railroads in an act passed January 18, 1866, entitled "An Act to amend an act to establish a system of Internal Improvement, passed the 11th of February, 1852."

SEC. 10. *Be it further enacted*, That this act shall take effect from and after its possage.

J. S. MULLOY,
Speaker pro.tem.of the House of Representatives.
JOSHUA B. FRIERSON,
Speaker of the Senate.

EXTRACTS FROM MESSAGE OF GOV. WM. G. BROWNLOW, OCT. 8, 1867. SENATE JOURNAL, 1867-8, P. 27.

ACCOUNTS BETWEEN THE STATE AND THE RAILROADS.

The entire account of the State with the railroad companies, and especially that portion relating to the sinking fund, has been so badly kept, during the war, and before, that the books are very unsatisfactory. I advise the appointment of commissioners by your body, to sit during your session, and make new settlements with all the roads, that the books may be made to show all settlements satisfactory, both to the State and companies. The expense of such settlement will be more than compensated for by rescuing the accounts from ruinous oblivion.

I further advise, that said commissioners be instructed to look into the disposition made of the bonds granted to the various Commissioners in the State, and that they be clothed with power to send for persons and papers. I have reason to believe that, in some instances, the bonds of the State have not been disposed of according to law, while in others the confidence of the State has been abused, and her credit sought to be injured, even by the recipients of her favors. And in all future appropriation to railroad companies, let us know the characters of the men into whose hands State bonds go, both as to integrity and loyalty. Meanwhile, let us guard against any future increase of the State debt by the issuance of bonds to railroads, unless it be in cases where the interests of the State would suffer for the want of further aid.

In the discharge of my duty, I have appointed receivers on as many as seven roads; and if the interest on their indebtedness to the State is not promptly met, I shall provide guardians for others. It is an outrage that nearly a million of dollars is due the State from these defaulting companies.

EXTRACT FROM REPORT OF COMPTROLLER BLACKBURN, OCT. 1, 1867. APPENDIX TO SENATE JOURNAL, PP. 45, 46, 52, 53, 54, 99.

RAILROADS.

These powerful engines of modern progress, so essentially necessary in the development of resources of a country, in bringing the great commercial centres within easy reach of our most distant and interior counties, bearing, on their wings of steam, our cotton, tobacco, corn, wheat and other products, to the distant seaboard, and returning freighted with all those articles needed by our people—this great interest in our State, built up by the capital of our citizens, and most liberally assisted by an enlightened State policy, is now, on account of injury received during the war, in rather depressed condition, so much so (as will be seen by an examination of the following table) that many of the roads have failed to pay the interest due July last, on the State's bonds loaned them. This temporary embarrassment, on the part of the roads that are yet embarrassed, is owing to the large sums of money necessarily expended in repairing the damage done to the roads during the war, as well as replacing, with new rails and machinery, those worn out in the service of the U. S. Government's Transportation Department during the war.

It seems reasonable to expect, however, now that the roads are once more in first rate running order, and abundant corps give promise of returning commercial activity, that they will soon rise—those who have not already—from their depressed condition, and again start forward on their career of usefulness and profit to themselves and the people.

By legislative enactment, on the failure of any railroad company to pay punctually the interest due on State bonds loaned it, a receiver may be appointed, to take charge of and run the road, until such interest shall be paid.

The records of this office, however, do not show that receivers are more successful than the regular officers of the railroads, in collecting and paying into the Treasury—indeed less so; for, from the roads now in the hands of receivers, hardly a dollar has been received during the past fiscal year.

The interest of the railroad companies, is now. emphatically, the interest of the State. To them she has loaned her bonds, to the amount of twenty-two millions of dollars, relying on said roads for the payment of the interest, and the providing of a sinking fund for the ultimate redemption of the bonds. This was fully realized up to the commencement of the war, and now that the cause of the failure to pay, with nearly all of its sad consequences, has almost disappeared, and the roads being repaired and fully equipped, we may, as I think—as before observed—with a little indulgence from the State to the roads that need it, expect, confidently, every road punctually to meet its liabilities.

In order that your Honorable Body might know the character and amount of security the State retains for the large amount of bonds loaned to railroad companies, I have prepared, from such data as this office affords, and from information obtained from the roads, a tabular statement of the capital, together with the length and cost of all railroads in Tennessee, which will be found annexed. Also, in tabular form, headed, "Railroads," a list of all railroads in Tennessee, the amount of bonds received by each, the amount canceled by their respective sinking funds, amount of interest funded on the first day of January, 1866, and amount of interest due by each railroad company on the first of July last, with the July interest then due, inclusive.

RAILROADS AND SINKING FUND.

The entire amount of State Bonds loaned to railroad companies up to October, 1861, was......................	$13,959,000
From which amount is to be deducted, bonds cancelled by the "Sinking Fund for Railroads," and bonds returned by the Louisville & Nashville, and Louisville & Nashville, and Edgefield & Kentucky, in full, for their indebtedness to the State. See Appendix to House Journal, 1865–6, page 234, for settlement of those accounts...........	
Total amount........	737,000
	$13,222,000

All bonds of the State, loaned to railroad companies, since March, 1866, amount to		8,172,000
		$21,394,000
The State has indorsed the bonds of railroad companies, the amount of	$2,350,000	
Of these, the Sinking Fund has cancelled this amount	143,000	2,207,000
		$23,601,000

Leaving the entire liabilities of the State, for railroads, to this date, $23,601,000, accruing interest, excepted. From this amount, there is yet to be deducted, an amount of bonds in the Railroad Sinking Fund, as shown in the table, below, headed "Railroad Sinking Fund." These bonds are not credited to the different railroad companies whose funds purchased them, as a question has arisen as to the construction of the act of 1860, chap. 93, which directs all bonds purchased by Sinking Funds, and interest accruing thereon, up to January 1, 1860, to be credited to those railroad companies entitled to such credit. As the Sinking Fund Commissioners did not so credit them at the time prescribed by the act aforesaid, the question of their disposition is referred to the Legislature, which will, in justice to the railroad companies, I apprehend, direct that the amount of said bonds be credited to their accounts.

The following bonds were purchased by funds furnished by railroad companies, and the accruing interest thereon, for their respective Sinking Fund accounts,

Those regular State bonds that were cancelled, are credited to the railroads whose funds purchased them, thus lessening their indebtedness to the State.

MEMPHIS AND CHARLESTON RAILROAD COMPANY.

Bonds purchased for this account.

2	Bonds of East Tennessee & Virginia Railroad indorsed by the State	$ 2,000 00
20	Capitol Bonds	20,000 00
3	State 5 per cents	3,000 00
3	State 5¼ per cents	3,000 00
5	East Tenn. & Georgia Railroad indorsed	5,000 00
1	Nashville & Chat. Railroad Co's, indorsed	1,000 00
3	State Bonds	3,000 00
		$37,000 00
	Less 19 State Bonds cancelled, and credited to account	$19,000 00
		$18,000 00

TENNESSEE & ALABAMA RAILROAD SINKING FUND ACCOUNT.

Bonds purchased for this account.

By 1	East Tenn. & Georgia Railroad, indorsed	$1,000 00
4	State 5½ per cents	4,000 00
3	" 5 "	3,000 00
		$8,000 00
Less 7	State Bonds cancelled, and credited to accounts	7,000 00
		$1,000 00

EAST TENN. AND GA. RAILROAD COMPANY'S SINKING FUND.

By 2	East Tenn. & Ga. Railroad, indorsed bonds................	$ 2,000 00
25	State Bond.....................	25,000 00
		$27,000 00
By 25	State Bonds, cancelled	25,000 00
		$2,000 00

—·—

EAST TENN. & VA. RAILROAD COMPANY'S SINKING FUND ACCOUNT.

Bonds purchased for this account.

8	Nashville & Chattanooga Railroad Company's, indorsed. ..	$8,000 00
8	East Tennessee & Georgia Railroad Company's, indorsed....	8,000 00
3	State Bonds	3,000 00
7	East Tennessee & Virginia, indorsed.....................	7,000 00
		$26,000 00
Less 3	State Bonds, cancelled...$ 3,000	
15	Indorsed, " .. 15,000	18,000 00
		$8,000 00

The failure of many of the railroad companies to pay their interest due on the the 1st of July last, has been very embarrassing to the Treasury—because entirely unexpected. From a tabular statement headed "Railroads," in this report, it will be seen, that the large sum of nearly $800,000 was due by them on the 1st of July last, for interest, for which amount, the Treasury was compelled to provide.

PUBLIC ACTS OF 1867-8, CH. 17, P. 14, PASSED DECEMBER 7, 1867.

AN ACT to Amend the Internal Improvement Laws of the State, passed February 11th, 1852.

Whereas, The Nashville and North Western Railroad has been but recently completed through to the Mississippi river; and *whereas*, it was impossible for said road to make any profit during its course of completion; and *whereras*, the interest upon the State bonds has not been paid by said road in consequence of its unfinished condition; and *whereas*, it is impossible to run said road with success without a large increase of rolling stock; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor of the State be authorized and directed to issue the bonds of the State, bearing six per cent. interest, with coupons attached, similar in every respect to the bonds issued under the act this is intended to amend, to the Nashville and North Western Railroad Company, three hundred and fifty thousand ($350,000) dollars.

SEC. 2. *Be it further enacted*, That the bonds of the State to be loaned by this act shall be exclusively applied to the purchase of engines, rolling stock, etc., for said road, and for the building of depot houses, work shops, and for iron for side tracks and spikes and necessary equipments.

SEC. 3. *Be it further enacted*, That the sum of eight hundred thousand ($800,000) dollars be, and the same is, hereby appropriated to the Knoxville and Kentucky Railroad Company; to the Cincinnati, Cumberland Gap and Charleston Railroad Company two hundred thousand ($200,000) dollars; *provided*, the directors of said road shall consist of nine, and the State be represented in said company in proportion to the aid granted by the State, with the exception that the directors on the part of the stockholders shall not be reduced below three; and the directors on the part of the State shall have all the rights, privileges and powers granted by the charter of said road to the directors elected by the stockholders: *Provided, further*, that the above shall be accepted by the company as an amendment to the charter of said road before said bonds shall be issued by the State. To the Winchester and Alabama Railroad Company, three hundred thousand ($300,000) dollars; to the Nashville and Decatur Railroad Company, three hundred and fifty thousand ($350,000) dollars.

SEC. 4. *Be it further enacted*, That the sum of three hundred thousand ($300,000) dollars be, and is hereby, appropriated to the South Western Railroad Company.

SEC. 5. *Be it further enacted*, That the sum of three hundred thousand ($300,000) dollars, be loaned to the Memphis and Charleston Railroad Company.

SEC. 6. *Be it further enacted*, That the sum of two hundred thousand ($200,000) dollars, be loaned to the Mississippi Central Railroad Company.

SEC. 7. *Be it further enacted*, That the sum of one hundred thousand ($100,000) dollars, be loaned to the Mississippi and Tennessee Railroad Company.

SEC. 8. *Be it further enacted*, That the sum of one hundred and fifty thousand ($150,000) dollars be, and is hereby, appropriated to the Knoxville and Charleston Railroad Company.

SEC. 9. *Be it futher enacted*, That the additional sum of five thousand ($5,000) dollars per mile, be, and the same is hereby, appropriated to the Tennessee and Pacific Railroad Company, subjecting the Company to the liabilities and restrictions imposed by the Internal Improvement Act of February, 1852.

SEC. 10. *Be it further enacted*, That the sum of one hundred thousand ($100,000) dollars in State bonds, be and the same is hereby, appropriated to the East Tennessee & Western North Carolina Railroad Company, for bridge building, exclusively.

SEC. 11. *Be it further enacted*, That the Governor issue the bonds of the State to the extension of the Nashville & North-Western Railroad from Huntingdon to Jackson, to the amount of two hundred thousand ($200,000) dollars.

SEC. 12. *Be it further enacted*,, That the Governor is authorized and directed to issue to the Edgefield & Kentucky Railroad Company three hundred thousand ($300,000) dollars in the bonds of the State, bearing six per cent. interest—the same as issued to the other railroads—to be used and applied to the erection of a depot in Nashville ; to the purchase of machinery, rolling stock and repairs, and for the construction of the extension of said road to the coal mines, under the charter of the Evansville, Henderson & Nashville Railroad ; *Provided*, the said Evansville, Henderson & Nashville Railroad Company shall execute their bond and obligation to the State of Tennessee, binding said company to pay the principal and interest of the amount of bonds used in the construction of said Evansville, Henderson & Nashville Railroad, and issue to the State, and deposit with the Governor, the stock of said company to the amount of the bonds so used in constructing of said road; and on the execution of said bond and obligation, and said stock, the Governor shall issue and deliver the bonds to the Receiver, or such person as the Governor may appoint, on his executing bond, with security, to be approved by the Governor, conditioned for the faithful and honest appliacation, and accounting for said bond.

SEC. 13. *Be it further enacted*, That the further sum of fifty thousand ($50,000) dollars, be, and is hereby, appropriated to the East Tennessee and Virginia Railroad Company to re-build depots at Russelville and Morristown, and for other purposes.

SEC. 14. *Be it further enacted*, That when any Railroad Company shall accept the benefits of this loan they shall accept the State Directors also; and said Directors shall be entitled to all the rights and privileges of other Directors on said roads.

SEC. 15. *Provided*, That if the several Railroad Companies, or either of them, to whom the bonds of the State have been loaned by this Act or former Acts, shall fail for two consecutive years to pay the interest that may accrue upon the bonds loaned to them severally, then, and in that case, the Governor, Secretary of State and Comptroller, may, at their discretion, sell said railroad track, railing, rolling stock, &c., upon such terms and conditions as they may deem best to secure the interest, of the State; and shall retain of the proceeds of said sale the amounts loaned to said companies and the interest due on the same, with expenses of said sale.

Sec. 16. *Be it furthet enacted*, That these loans shall be made in a like manner and under the same conditions imposed by the Internal Improvement Laws of the State.

Sec. 17. *Be it further enacted*, That this Act shall take effect from and after its passage.

F. S. RICHARDS,
Speaker of the House of Representatives.
D. W. C. SENTER,
Speaker of the Senate.

Public Acts 1867-8, Ch. 22, P. 23, Passed Dec. 13, 1867.

AN ACT Relating to Receivers of Railroads, and the power of the Governor over the same.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of a Receiver of any railroad to make, under oath, a detailed statement of the receipts and disbursements of all moneys received during each month; said statement to be filed with the Comptroller on or before the 20th of each month next after that to which the statement refers.

Sec. 2. *Be it further enacted*, That the Governor be, and he is hereby, authorized to remove the Receiver of any Railroad, when in his opinion the interest of the State will be promoted.

SEC. 3. *Be it further enacted*, That from and after the passage of this Act it shall be the duty of all Receivers to give a bond of fifty thousand ($50,000) dollars for the faithful discharge of their duties, to be approved by the Governor and filed with the Comptroller.

SEC. 4. *Be it further enacted*, That this Act shall take effect from and after its passage.

F. S. RICHARDS,
Speaker of the House of Representatives.
D. W. C. SENTER,
Speaker of the Senate.

PUBLIC ACTS 1867-8, CH. 48, P. 58, PASSED FEB. 25, 1868.

AN ACT to Define the Powers and Duties of State Directors, in the Railroad Companies of this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall be the duty of the different railroad companies of this State, where roads are completed, and in running order, on or before the first of January, 1869, to report to the Governor the whole amount of the cost of their respective roads; the amount of State aid received by each road, and the number of company directors in each board; also the amount of stock and State aid taken by the State in each road.

SEC. 2. *B it further enacted*, That the Governor shall appoint, for each unfinished road in this State, when the company shall have received or secured the aid of the State ; and for each company whose road may not yet be commenced or located, the Governor shall appoint a number of State directors, equal to the whole number of company directors ; and it shall be the duty of the State directors, appointed under this section, to aid in the location of any road not yet commenced, or in the change of location of any unfinished portion of any road which may have been commenced, which may be deemed desirable and proper.

SEC. 3. *Be it enacted*, That each State director, appointed under the provisions of this act, shall faithfully attend all meetings of the board, of which they are members; and in all matters brought before said board, to represent the interest of the State, and the people of the State; to see that the law is complied with before State bonds are called for, and to see that such bonds are used and applied strictly according to law ; and to assist, and demand of said boards, that the interest on all bonds, loaned or indorsed by the State, shall be punctually paid. And they shall each take and subscribe an oath of office, for the faithful performance of their duties, herein imposed, which shall be filed in the office of the Secretary of State.

SEC. 4. *Be it further enacted*, That five of said State directors may, whenever they see proper, call a meeting of directors,or stockholders, of their company by such notice as is provided by the charter or by-laws of said company. That the Board of Directors shall have power, at any time, to change their officers ; and that no railroad company shall be entitled to any further State aid, until the company fully admit the State directors to all the rights and privileges of company directors.

Sec. 5. *Be it further enacted*, That all State directors, appointed by the Governor, shall be eligible to hold any office in any railroad company, or to cast his vote in any and all elections, in said company, whether he be a stockholder or not.

Sec. 6. *Be it further enacted*, That all laws in conflict with this act be, and the same are hereby, repealed.

Sec. 7. *Be it further enacted*, That said directors on the part of the State shall be paid for their services such compensation, by the companies, as the president and directors may fix or establish.

Sec. 8. *Be it further enacted*, That it shall be the duty of the State directors, in any railroad company which is in course of construction, before any bonds shall be issued to said company, to make, and file with the Secretary of State, a sworn statement that the company has complied with the provisions of the general internal improvement laws of this State; and the Governor shall not issue any bonds to any railroad company until such sworn statement is filed.

Sec. 9. *Be it further enacted*, That all laws creating the office of Road Commissioner be, and the same are hereby, repealed

Sec. 10. *Be it further enacted*, That this act take effect from and after its passage.

F. S. RICHARDS,
Speaker of the House of Representatives.
D. W. C. SENTER,
Speaker of the Senate.

Public Acts 1867–8, Ch. 49, P. 87, Passed March 13, 1868.

AN ACT to liquidate the Debt of the State, falling due in 1868 and 1869.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor, Secretary of State, Comptroller, Treasurer, and the President of the Bank of Tennessee, be, and they are hereby, made a Board of Finance, any three of whom shall constitute a quorum for the transaction of business. Said board shall elect one of its own members President, and may, if deemed necessary, elect a Secretary.

Sec. 2. *Be it further enacted*, That it shall be the duty of the President, if there should be no Secretary, to keep a full record of the proceedings of said Board, and submit the same to the next General Assembly, together with a report of the indebtedness of the State, and of all important matters relating to its financial affairs.

Sec. 3. *Be it further enacted*, That it shall be the duty of said Board to provide for the payment of the interest on the State bonds; and to provide for the payment of so much of the public debt of the State as may require payment within three years from the passage of this act; and, to enable the Board to perform this duty, it may negotiate such loan as may be necessary, either by a pledge or sale of bonds; and it is hereby authorized to call upon the Governor for, and it shall be his duty to issue the bonds of the State in sums of fifty dollars and upwards, bearing such rate of interest not exceeding 9 per cent.; and the interest payable in such currency as the Board may deem best for the interest of the State. Said bonds may be made redeemable at the pleasure of the State, after five years from their date but said bonds shall not be sold at less than par; and the funds received from the sale or loan of the bonds hereby authorized to be issued, shall be exclusively applied to the payment of the bonds now outstanding, or to the payment of the maturing interest thereon; but under no circumstances shall the amount of bonds issued under authority of this act, exceed the amount of outstanding bonds and interest concurrently paid off, so that the aggregate bonded indebtedness of the State shall not be, in any one degree, increased.

SEC. 4. *Be it further enacted*, That said Board shall have all the power heretofore conferred upon the Commissioner of roads; and the Board may employ a competent civil engineer to examine the condition of any railroad in the State, whenever such examination may be deemed necessary, and it shall be the duty of any railroad, or railroad receiver in the State, whenever called upon to do so, to report to the Board the amount of the bonds of the State in the possession of the road, and in what manner any bonds loaned them by the State have been disposed of; and said Board shall have the power to appoint the agent or agents through whom the bonds loaned to railroads may be disposed of. The Board shall have supervisory power over receivers of railroads; and it shall be the duty of the Board to require from receivers such bonds and reports as said Board may deem best for the interest of the state; and if such bonds are not made satisfactory to the Board, or if the receiver should not perform his duties, upon written notice thereof, to him, his powers as receiver shall cease from the receipt of the notice. The Board shall settle with all railroads and railroad receivers, and turnpike companies, and examine into and settle the sinking fund account between all railroads and the State.

SEC. 5. *Be it further enacted*, That it shall be the duty of each railroad company, at least fifteen days before each installment of interest on the bonds issued to it becomes due, to deposit with the Comptroller of the State a sum of money sufficient to pay such interest, including exchange and necessary commissions; and when failing to comply with the above requirements the road shall be subject to all the provisions of section 1101 of the Code.

EXTRACT FROM COMPTROLLER'S REPORT, AUG. 6, 1868—SENATE JOURNAL, EX. SESSION 1868. PP. 95 to 107.

COMPTROLLER'S OFFICE,
Nashville, Tenn., August 6, 1868.

To the General Assembly of the State of Tennessee:

GENTLEMEN—In answer to a resolution adopted by your honorable body, calling on me to render an account of my "stewardship" while a member of the Board of Finance, and my reason for not participating in the proceedings of said Board of late, I have the honor to present to your honorable body the following communication.

Permit me here to state that the course pursued by me while a member of the Board was advisedly, deliberately and intentionally pursued, wholly uninfluenced by any individual member of the Board, or by any party or "Ring" outside of the Board. The law creating the Board was before me. The State with all her laboring millions—their necessities, their hopes and their fears. The present condition of things in the State, financial and political, the word of the patriot to do *to-day* and the hopes of the patriot touching the *proximate* and *remote* future of the State, were *all* before me; and were studied with an anxiety and earnestness and persevering determination, in the presence of which selfishness did not only *not* exist, but *cannot.*

Seeing that the law conferred on the Board almost unlimited power over the control of the finances of the State, and learning that one of the members of the Board, Samuel Watson, President of the Bank of Tennessee, had left for New York as soon as the law was enacted, taking a copy of the law with him, to confer with capitalists there, without even speaking to any other member of the Board in regard to the policy to be pursued; and learning also that he was in favor of issuing gold-bearing bonds, *indefinitely*, either to be sold for currency, with which to redeem an indefinite number of our outstanding bonds, or to give them in exchange for said outstanding bounds; also, that he was corresponding with capitalists here in relation to the certainty of the success of his scheme to "bull" the price of bonds, and that some of the parties here had *ventured* on the same, and that one speculator in this city had been telegraphed by said member of the Board to meet him in New York—and *all this* before the organization of the Board, and without having consulted the views of one single other member of the Board. Seeing all this, my mind became oppressed with most serious apprehensions, and I viewed the situation with intense anxiety. Failing to convince myself that the interests of the State could be advanced by the issuance of gold-bearing bonds for *any* purpose, I determined to oppose the mersure by all means available while in this office, either as a member of the Board or as Comptroller, and in the end to resign my office as Comptroller before I would sign the coupons on gold.bearing bonds.

My proposition was to fund the bonds that matured May 7, 1868, and to borrow enough money, if necessary, to help to pay the July interest, and then to wait for the meeting of the Legislature in November next.

In process of time Mr. Watson returned from New York. He and I, at his request, had a private interview, at the commencement of which he said if he and I could not agree, he would have nothing to do with the Board. I told him I never would support his policy of issuing gold-bearing bonds; but feelings of delicacy prompted me to suggest the impropriety of his withdrawing from the Board.

The Board met and organized on the 9th day of April. I was fully ready for the work. It is proper to state that at this time the Board was a unit on the bond question and on the question of the July interest, Mr. Watson being excepted.

The Board being organized and ready for business, the Secretary of State introduced the following "orders," both of which were unanimously adopted, to-wit:

"ORDER NO. 1.—*Ordered by the Board of Finance of the State of Tennessee*, That six per cent coupon bonds of the State be issued to such of the creditors of the State as may hold any portion of the bonds issued in May, 1838, for the establishment of the Bank of Tennessee; said (new) bonds to be dated and bearing interest from the first day of July, 1868, payable semi-annually on the first day of July and January, the bonds to fall due on the first day of July, 1898; and that the President of the Board be authorized and directed to procure the necessary engraving. and to notify said bondholders by advertisement, in New York, to present their bonds for renewal during the present year; and that the interest on said outstanding bonds be paid up to July, 1868, in currency.

"ORDER NO. 3.—*Ordered by the Board of Finance of the State of Tennsesee*, That the Comptroller of the State be, and is hereby, directed to call upon the Governor, from time to time, for a sufficient amount of the bonds of the State, similar to those provided for in the order of the Board proposing to fund the bonds issued to the Bank of Tennessee in the year 1838, which the said Comptroller may hypothecate so as to raise a sufficient sum to meet any deficit in the treasury for the payment of the July interest on the State debt, and for the payment of the indebtedness of the State to the Fourth National Bank of New York, for advances made to pay interest heretofore; *Provided*, that the terms on which said hypothecation may be negotiated shall first be submitted to this Board, for which purpose the said Comptroller may call a special meeting, if necessary; and he shall report his action from time to time, and be subject to the order of he Board."

At a subsequent meeting of the Board the date of the maturity of the bonds, the issuance of which is thus provided for, was changed to January 1, 1900. The result of the operations of the Board at this, its first meeting, was such as to remove from my mind all apprehension of danger in the future; for Mr. Watson's scheme had been freely canvassed by all the members of the Board, before its organization, and earnestly, unanimously condemned. *Now*, the Board had met and organized; had "ordered" the funding of the May bonds, and the borrowing of money on the hypothecation of the regular 6 per cent bonds of the State, I considered the crisis as being passed, and with my mind much relieved, proceeded at once to give the "notice" and to order the one thousand bonds, as directed in Order No. 1. Soon after the publication of this "notice" in the New York papers, the May bonds began to arrive for funding, and I gave it as my opinion, that had it not been for the expectation that seemed to begin to be entertained by the holders of these bonds, that Mr. Watson's scheme—the issuance of gold bearing bonds—would ultimately succeed, those May bonds would, by this time, have been funded. In a short time I recieved the one thousand bonds from the National Bank Note Company, New York, and have funded 157 of the May bonds.

From the 9th of April to the 13th of May, the action of the Board was not of sufficient importantance to justify a recapitulation here, especially as the General Assembly has called on the present Secretary of the Board for a transcript of the record.

A short time before the 13th of May, I heard that the Governor had decided to sanction Mr. Watson's "plan."

It is important to state here that Mr. Watson had not attended all the meetings of the Board, and that on such occasions the Board had adjourned without the transaction of business, because of his absence A few days, however, before the thirteenth, Mr. Watson appeared and called earnestly and persistently for a meeting. As I had learned that the Governor had decided to vote for Mr. Watson's scheme, and as the Secretary of State was absent, I opposed the transaction of business. At the earnest solicitations of Mr. Watson, however, "to call a meeting of the Board, and then adjourn, without the transaction of business, merely to have the record show that the Board had met and adjourned," I called the Board to "order," and Mr. Watson read a resolution to adjourn *to meet at Knoxville.*

After having expressed to Mr. Watson *some* of my views and feelings relative to the hypocrisy, false pretenses, etc., of the course he proposed, I appealed to Col. Henry, to prevent the complete disruption of the Board, and the nullifying of all it had done, by helping me to kill the resolution. He did so, and we adjourned to a day fixed.

When the Board met. May 13th, Mr. Watson offered the following resolution, No. 15, which sets forth his scheme in a modified shape :

WHEREAS, The State of Tennessee has an opportunity of procuring a loan, on six months' time, to buy the bonds of Tennessee to the amount of two million of dollars ; and *whereas*, the purchase of bonds at the present market rates, would save the State upwards of $3000,000, in every million of dollars purchased, and would probably save the State a considerable sum annually in interest, and would certainly increase the market value of the bonds of the State ; therefore,

"*Be it resolved*, That it is to the interest of the State to purchase immediately, one million dollars of its bonds, to be paid for by the issuance of gold-bearing bonds, at a rate of interest not exceeding seven per cent., provided the purchase can be made at such a price as will certainly reduce the debt of the State.

"*Resolved*, In order to relieve the present pressure upon the treasury, and in order to enable the treasury to meet the wants of common schools, it is the interest of the State to sell an amount of gold-bearing bonds sufficient to pay the balance now owing the Fourth National Bank of New York, and sufficient to pay the amount of interest maturing in July next, that the railroads may be unable to pay; *provided*, that such bonds can be negotiated at par, as a rate of interest not exceeding that authorized by the act creating the Board of Finance.

"*Resolved*, That an agent shall be appointed by this Board, out of its own members, to proceed to New York and other points, with authority to carry into effect the provisions of the above resolutions, to attend to the financial interests of the State at those points; and that this agent shall also have the authority to advance the credit of the State by publishing through the press, and by visiting in person, bondholders and others interested in the State of Tennessee. The expenses of this agency to be paid for by the Board, but no compensation for time given or services rendered by him, to be allowed."

Let it be romembered, that Mr. Watson's scheme, of which the foregoing preamble and resolution is a modification, had been fully discussed in New York before the organization of the Board; in fact, that the whole matter had been originated in New York.

After reading the resolution, the subject was fully discussed by the Board, during which I informed the Board that I would oppose the policy indicated by all the means available, and that I would never sanction it.

The Secretary of State then offered the following, in lieu of Mr. Watson's resolution:

"PROPOSITION IN LIEU BY THE SECRETARY OF STATE, REJECTED BY TIE VOTE.

"*Ordered by the Board*, That the Comptroller be authorized and required to borrow as much money as, in his judgment, may be necessary to pay the

July interest on the State debt, and the debt owing to the Fourth National Bank of New York; and that to enable him to do so, he may contract for the delivery of the bonds of the State, bearing such rate of interest in gold or currency as will command a par price."

The Board then ordered Mr. James Plunket, the then Secretary of the Board, to send the two foregoing propositions to the Governor, to be examined by him, and then returned to the Board by mail, with instructions for the casting of his vote, etc.

The Board then adjourned, and met again on the 18th of May. The propositions having been returned by the Governor the package was opened, and it appeared that the Governor had approved, or at least voted for Mr. Watson's resolution! *I was perfectly astonished.* My heart grew sick, and I felt that these were truly "evil days." The crisis had again arrived, and the "tug of war" had truly come.

I looked upon Mr. Watson's scheme simply as a system of things devised by heartless speculators, to "bull" the price of our bonds for selfish purposes of speculation, to which the State was the victim, and by which they hoped to enrich themselves at the expense and disgrace of the State. But the majority now, for all practical purposes, was against me. Being satisfied as to what Mr. Watson's designs were—his "wheels within a wheel"—I applied my mind to "close thought" on the subject, for the purpose of devising some means yet to prevent the world from being flooded with gold-bearing bonds, for the redemption of which the State of Tennessee would be bound.

Remembering that Col. Henry had told me that he was opposed to the issuance of gold-bearing bonds for any other purpose than that of raising enough money to help pay the July interest, and to give the necessary relief to the State treasury to enable the State to extend some assistance to the common schools, and believing that Mr. Watson had *deceived* the Colonel into the supposition that he (Mr. Watson) intended nothing more, I offered the following—after having read the Act creating the Board, and addressed remarks explanatory to the Colonel, showing plainly and emphatically that the adoption of my resolution would secure all that he asked for. During all the time occupied by me in addressing the Colonel, Mr. Watson continued to make remarks—of course I do not mean to say continuously and without intermission—calculated, and, as I well knew, intended to distract his mind from an understanding of the truth involved in the matter:

"PROPOSITION IN LIEU BY THE COMPTROLLER, REJECTED BY TIE VOTE.

"Resolution No. 18, offered in lieu of Resolution No. 15, offered by the President of the Bank of Tennessee, on the 15th inst., at the last meeting of the Board of Finance, as said resolution, No. 15, now stands:

"WHEREAS, In the opinion of this Board, a sufficient sum of money cannot be collected from the railroads of the State and all the sources of State revenue, to pay the interest falling due July 1st, 1868, on the State debt; *and whereas*, in the opinion of the Board of Finance, the importance of the prompt payment of said interest may be regarded as justifying a resort to extraordinary means of raising funds for that specific purpose; Therefore,

"*Ordered by the Board*, That the President of the Board be, and he is hereby, authorized and directed to call on the Governor of the State to issue a sufficient number of 7 per cent. coupon bonds of the State, for one thousand dollars each, dated July 1st, 1868, and to fall due January 1st, 1900, interest payable semi-annually in New York—both principal and interest payable in gold—to supply the deficit due on the July interest, 1868, and for no other purpose, after paying on said interest account every dollar that is collected from the railroads, and every dollar that can be furnished from the revenue of the State; *Provided*, that said bonds can be sold for currency at par; *Provided further*, that the said President be required to report to this Board the terms and manner of sale, before said bonds are delivered.

"*Ordered further*, That the President of the Board be, and he is hereby, instructed to employ the National Bank Note Company, of New York, to prepare a suitable plâte, and to engrave said bonds."

The vote was then taken on my substitute, and it was rejected by a tie vote.

Mr. Watson's resolution was then carried by the votes of himself, the Governor and Col. Henry.

Being fully imbued with the "spirit of the case" on that day, and fully understanding the situation, I could not, and I did not, *otherwise* look upon the spectacle before me, nor contemplate the nature and condition of said spectacle and situation, than with unutterable and indescribable contempt, loathing and disgust.

The following protest was then presented to the Board by Secretary Fletcher and myself, jointly:

"PROTEST OF THE SECRETARY OF STATE AND COMPTROLLER.

"The undersigned most earnestly protest against the action of the Board, in adopting the proposition of the President of the Bank of Tennessee, for the following reasons:

"First, The main feature of the scheme, that of selling the bonds of the State indiscriminately, with a view to purchasing other bonds of the State, without reference to the time of maturity, is wholly illegal, there being nothing in the law creating the Board, or elsewhere, authorizing the Board to borrow money, or issue new bonds for any other purpose than the payment of the interest on the State debt, and so much of the principal as may fall due within three years from the passage of the law. The bonds will, therefore, be illegally issued, and the sale of them a fraud.

"Second, The facts assumed in the preamble do not exist, viz: That the State has an opportunity to make or save $300,000 by the operation of borrowing money on six months' time, to buy a million of dollars of our six per cent. bonds, by the issuance and sale of gold-bearing bonds sufficient to repay the money borrowed, it may be easily shown by calculation, that, by the time the gold is purchased to pay the interest and principal of the new bonds, the State will lose by the transaction, besides the expense of issuing and selling said bonds.

"Third. It is discreditable and dishonorable to the State, to go into market with a proposition to purchase its own bonds at a discount of thirty per cent., and being without profit, is wholly unwarrantable, and will create suspicions of dishonest purposes.

"Fourthly. The constitution has fixed the rate of interest in Tennessee at six per cent,, to be uniform throughout the State. The courts of Tennesee can give judgment for no higher rate, nor can the Federal Courts, upon contracts made in this State. In the case of a State bond, the contract is in the bond, and is made at the Executive office. The issuance of seven per cent. bonds, which now actually bear an interest of 9 80 in legal tender money, is, therefore, to say the least, of questionable constitutionality; and though the State will never repudiate them on legal grounds alone, it is not likely that well informed dealers will buy them. The bonds being payable in New York, where seven per cent. is allowed, may be technically legal, but it is actually usury on the people; because, if the bonds be made payable in Tennessee, they would be void.

"Fifthly. The proposition does not provide that the bonds should be sold at par. The law declares that they shall be sold in no other way. The scheme only provides that they be sold so as to reduce the bonded debt of the State. Our agent may, therefore, deliver gold seven per cent. bonds in exchange for six per cent. bonds, at but one cent. difference. Other reasons might be given for condemning this movement, but are, perhaps, unnecessary here; because of all which the undersigned protest, and move to have this, their Protest, spread upon the minutes of the Board.

"A. J. FLETCHER,
"*Secretary of State, and ex-officio member of the Board.*

"G. W. BLACKBURN,
"*President Board of Finance.*"

Immediately after which, I tendered to the Board my resignation as follows:

"COMPTROLLER'S OFFICE,
Nashville, Tenneesee, May 18, 1868.

"*To the Board of Finance*:

"GENTLEMEN: Finding it to be impossible to support the financial scheme advocated by the President of the Bank of Tennesee, and now supported by his Excellency, the Governor,, and being fully satisfied that I cannot advance, or protect the interests of the State through the Board, by longer continuing to be a member thereof, and being unwilling to be connected with measures— even by implication—which I do most conscientiously believe will redound to the financial injury and disgrace of the State, I hereby tender to the Board this, my resignation, as a member of said Board, thus, at once, dissolving my connection with said Board, as a member thereof.

"G. W. BLACKBURN,
"Comptroller and President Board of Finance."

This resignation, particularly when taken in connection with the foregoing, will fully explain the reason why I did not continue to act with the Board. While I continued to work with the Board, the interests of the State, its respectability at home, and its good name at abroad, constituted the "man of my counsel." This I know, and to me it is enough to know.

It is fitting, however, for me to remark here, that I did not, at any stage of the proceedings, regard Mr. Watson as the friend of the State. I regarded him as working here in the service of a "ring of speculators" in Tennesee bonds, having its head in New York, the business of which was to "bull" the prices of bonds momentarily, so that bonds that had been bought low might be sold high, in the success of which operation I regarded Mr. Watson as being an interested party; acting upon the same principle of those Railroad Receivers, who have been placed in possession of railroads to look after the "interests of the State," and who never pay the State any money, being wholly regardless of the unpleasant straits into which the "State" is driven by their infernal proceedings.

After the adjournment of the Board here on the 18th day of May, Mr. Watson and Col. Henry repaired to Knoxville, where they met with the Governor, and on the 21st of May, reorganized the Board. My information concerning what was done at this meeting of the Board, was derived from the Knoxville Whig, a few days after the meeting of the Board. Mr. Watson had been made chairman of the Board, appointed agent to go to New York to sell six hundred seven per cent. gold-bearing bonds, to help pay the July interest, and to enable the State to assist the schools; *provided* these bonds could be sold at par, for currency. This was my understanding of the matter, and I regarded it as official.

I was pleased to infer from the proceedings of this meeting, that the Governor had suspicioned the existence of Mr. Watson's cat, hitherto hid away under pretty heavy coats of sophistical meal, and had wisely concluded to circumscribe the gold bond venture to the objects as above.

When the news reached Nashville that only six hundred gold-bearing bonds were to be issued, a banker told me that he would give currency for such bonds at par. Taking this fact into consideration, I supposed Mr. Watson would sell the bonds as soon as he reached New York, *and I supposed he would go immediately to New York and do it.* It seems from his communication to your honorable body, however, that he *completed the terms* of a loan on the 7th of June, seventeen days after his appointment as agent for that special purpose. The hurry of Mr. Watson, on account of the shortness of time, etc., manifested and urged about the 10th of April, when he had the Governor's proxy in his pocket, and when I desired more time to oppose his schemes, seems to have vanished as soon as he obtained the agency.

On account of facts stated above, I considered the providing of money for the July interest as having been taken off my hands, *because* I believed Mr. Watson would sell the bonds *as* authorized by the Board—I did not suppose he was authorized to raise it in any other way—*hence* my supposition that he had failed in his mission, and that nothing had been done for the State, when I heard the bonds could only be sold conditionally, which condition I regarded as ending the experiment. About this time it was, that I was told by the President of our fiscal agency, that I ought to go there at once, etc.; and it was at this time that I concluded to go, instead of *sending* for the January and May coupons; and it was at or about this time, that I telegraphed, or wrote, President Calhoun that I would be there as soon as I could, etc.

As to my preventing Mr. Watson from raising money for the July interest, by writing to the bank there "that I was going to attend to it myself," there must be a mistake. The raising of money by Mr. Watson was a thing with which I had nothing to do. Nor did I propose to have *anything* to do with it; and, in fact, it never entered my mind to interfere with it.

What I distinctly remember in connection with this matter, is this: When I became satisfied that the sale of gold bonds would not be made, and fearing that Mr. Watson would again enter into entangling, conditional and unnecessary contracts in the procuring of a loan, I wrote President Calhoun, telling him *what* authority Mr. Watson had to raise money, and *how* it was to be done; and said to him that if he did, it was all right, but if he did not, that I would not sanction his operations there till I knew what they were.

As to the payment of a certain amount of money to the Fourth National Bank (about which Mr. Watson complains) *after* the meeting of the Board at Knoxville, and before Mr. Watson completed the *terms* of a loan in New York, June 7th, I *only* have to say that my word as Comptroller of the State, and as *G. W. Blackburn* straight, was pledged to President Calhoun for the payment of that money *as soon as I could pay it, and I did it.* That is all. That the payment of old debts darkens the prospects of making new ones, is a proposition the philosophy of which I cannot comprehend. My "lack of financial ability," however, is doubtless the cause of it.

I left for New York as soon as I could arrange matters here so that I could leave, having previously arranged with Col. Henry to forward to me at New York, to the care of the Fourth National Bank, all the money that came to my office or his from the railroads; $119,165.90 was received in my absence and not forwarded, because at the time it was received, the Colonel supposed I was on my way home. I took Mr. Plunkett with me to help me to count, receive, cancel and bring to this office nearly $800,000 in coupons from the Fourth National Bank, New York, and to help me make a settlement with the bank in reference to the past.

I went, not knowing what else I would have to do, or what I could do; but I went with a determination to leave gold bonds out of any arrangements that I made. I consulted with our Congressmen in Washington as I passed on, and arrived in New

York on the 16th of June; and the next morning called on President Calhonn, and finding that there was no necessity for gold-bearing bonds, completed arrangements with him, satisfactory to him and fully so to me.

After this, I called on all the holders of our May bonds that I could find, and arranged with them and President Calhoun in reference to the funding of these bonds, by which no expense would be incurred by the holders of the bonds, and but little to the State. I also saw the President and Cashier of the Manhattan Bank, in reference to the money that was to be paid into said bank on account of the Agricultural College land scrip of the State, and made an arrangement by which the money cannot be withdrawn without the authority of the whole Board.

Having thus *finished my work*, leaving nothing undone that I could do, or was necessary for me to do, I left the city on the 20th of June, well pleased, in good spirits, and with the belief that *all was well.* And here let me state to your honorable body, that it was not the failure of the railroad men to pay before the 30th of June, nor my failure to stay in this office and send on money to New York, nor on account of my paying up the loan accounts of January, 1868; nor was it anything I had written or said to the President of the Fourth National Bank; nor was it the work of the New York capitalists—*none* of these, nor *all* of them put together, that prevented the payment of the July interest—but it *was* a "bear" movement, by either a Tennessean or Tennesseans, then in New York, who, for the purpose of making money, sold short, and had the railroad men and the bank enjoined *effectually* to "bear" the price of bonds, so that they might buy bonds at a low figure to cover their engagements.

Of course I qualify this by saying that I don't *know* that it is so; nor do I, therefore, say that it *is* so; but I do say that I don't suppose there is any one that don't believe it, unless by a possibility I am mistaken in my belief.

I do not believe that Mr. Watson had anything to do with the "bear" movement, his success depending entirely, in my opinion, on the success of the "bulls."

I returned to Nashville on the evening of the 25th of June; and on the 26th sent to New York, to our fiscal agency, $120,665.90.

Rejoicing in the belief that a better day was dawning on our State, I pursued my duties in this office, undisturbed by a thought of approaching difficulties, until some time in the day of the 29th day of June, when Mr. McCrory, of the First National Bank of Nashville, came into this office and told me he had received a dispatch from New York, stating that the rumor there was, that the railroad men, then in New York, would be enjoined from paying the State money due on the State loan. I at once telegraphed to President Calhoun, telling him what I had heard, and requesting him to tell me if there was any truth in it. His answer, received the same day, was, "that the railroad men had been enjoined, and the report was, that the funds of the State in his bank would be enjoined."

Not knowing what to think about the matter, and fearing that possibly some holder of our May bonds had concluded to compel the State to pay said bonds, and being determined that the State should not undertake to do any thing under compulsion, and not knowing but what *all* my arrangements there might be entangled, I proposed to cut the gordian knot by telegraphing the bank to consider for the present, our contract for the loan cancelled, and to return to me, by express, all the funds in the bank to the credit of the State.

The answer was, that my dispatch "came too late, funds all attached."

My next information was, that the trial of the case was set for a certain day. I dispatched President Calhoun to employ counsel for the State, and have the trial hurried up. He answered that Judge Watson had already employed counsel.

The trial was put off. The next information of any importance, that my inquiries elicited, was that the case would certainly be reached and disposed of, on the 20th July. That day passed, and I asked for the result, and was told that the case was put off by counsel for the State, and that Judge Watson had been telegraphed to, and it was thought when his evidence could be heard in behalf of the State, an early decision would be made in the matter, etc. This was dated July 23d, and is the latest information I have ; and here, therefore my report to your honorable body closes, with a very few additional remarks.

Believing, from intelligence received from President Calhoun, that the injunction case would be disposed of in favor of the State, on the 20th of July, I commenced preparing to go to New York, to again arrange for the payment of the July interest. I learned, however, before the 20th arrived, that Mr. Watson denied my authority to do so, claiming that he alone possessed that authority. I immediately telegraphed and wrote to the Governor requesting him to lay the matter before the extra session of the Legislature, so that the matter might be disposed of by your honorable body as you might deem most advisable.

Now, gentlemen of the General Assembly—after having witnessed all that I have in relation to what the Board has done, and what it has left undone, and what it has tried to do; and after having studied the Board itself, with all its circumstances, conditions and surroundings—allow me to say to your honorable body, that it is my deliberate opinion in which I think it impossible for me to be mistaken—that the interests of the State imperatively demand the instant repeal of the law creating the Board; and that, in the future, for a time at least, you endeavor to have the interest of the State looked after *otherwise* than by irresponsible agents.

In closing this report, permit me to say, that it has been hurriedly written—under circumstances not favorable to the preparation or making of a report on a subject like this, and that much might have been said additional to what has been said, of like character; but not wishing to make my reply to your resolution too cumbrous, I have tried to study brevity.

In all that I have done, or tried to do, both while acting with the Board, and since, I have been governed by what I considered to be my duty to the State.

I may have erred. If so, it has been in judgment, not otherwise. My conscience is clear.

Your obedient servant,
G. W. BLACKBURN,
Comptroller.

Extract from Message of Gov. Wm. G. Brownlow, Nov. 10, 1868. Senate Appendix 1868-9, pp. 4 and 5.

THE RAILROAD QUESTION.

The six railroads in the hands of Receivers, are indebted to the State, on interest account, due July 1, 1868, one million one hundred and twenty thousand nine hundred and ninety-six dollars and eighty-six cents. The interest of these roads, as well as that of the State, require that they should be sold and the proceeds thereof be applied to the reduction of the State debt.

I would have seized the two other roads for failure to pay the July interest, and placed them in the hands of Receivers, but that I had learned by experience. that to do so would only entail increased burdens upon the State Treasury.

I recommend that no more appropriations be made to railroads, except in those cases where the State has large interest in said roads, and would suffer heavy loss on account of the lack of such appropriations. Of this class are the roads running out, North and South, from Knoxville, and the one extending South from Morristown ; and, also, the road of which Hon. Senator Parker is President. These roads, in order to become profitable and productive to the State, will require enough additional appropriations to enable them to complete their lines, so as to connect with other roads now in process of construction. I propose, however, to meet these demands in a way not to increase the liabilities of the State. The plan is this :

Leading gentlemen, connected with important railroads largely indebted to the State, are asking for authority to issue second mortgage bonds, with a view of exchanging them for State bonds. Thus purchasing State bonds by the avails of these second mortgage bonds, the debt now due the State would, in like amount, be transferred to these railroad companies, and so the State would be relieved of a burden of several million of dollars of debt now resting upon it.

I regard this proposition with approval, and advise its adoption by the Assembly. The payment of large debts now due from the roads alluded to, and the sale of the roads already in the hands of Receivers, would reduce the State liabilities at least one-third.

This plan, it is seen, would enable the General Assembly not only to reduce materially the State's liabilities, but also to render such necessary additional aid to the roads whose completion is demanded by considerations of public economy.

Several of the railroad companies have unsettled accounts with the sinking fund. The State being indebted to them and they being indebted to the State, it is important that an early settlement of these accounts be had. I recommend, therefore, that the proper action be had by your respective Houses, to procure the desired settlement with the said railroads.

Since the adjournment of your Extraordinary Session, the Comptroller has visited New York and made satisfactory arrangements for the payment of the July interest. This fact, together with the result of the late State and Presidential elections, has induced an appreciation of our State bonds, and a material depreciation in the price of gold.

The occasion serves to allude to the gratifying fact, that, financially and otherwise, Tennessee occupies a far more desirable position than any of the States recently in rebellion. Thus the policy of reconstruction maintained by the Union Republican party of Tennessee, finds ample and triumphant vindication by its achievements among us; and thus, also, the path of our future growing prosperity is traced for us by the history of the last four years. We have only to follow up with steady nerve and unfaltering step, the policy thus far so successful, to assure to this great Commonwealth that degree of thrift, wealth and power, to which our natural position, our boundless resources and our enterprising population so eminently entitle us.

PUBLIC ACTS OF 1868-9, CH. 19, P. 19, PASSED JAN. 26, 1869.

AN ACT to amend the Internal Improvement Act, CHAPTER 151, PASSED FEBRUARY 11, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall be the duty of each railroad company, to whom has been issued the bonds of the State, at least fifteen days before the interest becomes due from time to time, to pay the amount of such interest, including exchange and necessary commissions, to the Comptroller of the State.

SEC. 2. *Be it further enacted,* That any railroad company failing to comply with this Act, shall be subject to all the provisions of section 1,101 of the Code.

SEC. 3. *Be it further enacted,* That this Act shall take effect and be in force from and after its passage.

F. S. RICHARDS,
Speaker of the House of Representatives.
D. W. C. SENTER,
Speaker of the Senate.

PUBLIC ACTS OF 1868-9, CHAP. 23, P. 25, PASSED JAN. 28, 1869.

An Act to Regulate the Number of Directors of the Several Railroads in the Senate of Tennessee.

WHEREAS, The number of Directors in many of the railroads in this State, especially since the law adding State Directors in equal number to company directors, render tht body too cumbersome and expensive to many road:

SECTION 1. *Be it further enacted by the General Assembly of the State of Tennessee*, That whenever the stockholders of any railroad company of this State shall, by a majority vote, signify the desire to reduce the number of Directors in such road, to any number not less than six, such vote shall, in so far as this matter is concerned, be considered and taken as an amendment of the charter of said railroad company, and the officers governing or controlling such railroad, shall be governed accordingly.

SEC. 2. *Be it further enacted*,, That whenever any road shall have signified their desire for a reduction of Directors, as specified in the preceding section, and shall have carried the same into effect, the Governor of the State shall, upon proper notification, reduce the number of State Directors in proportion to the number fixed by the stockholders under the preceding section. This act to take effect on and after its passage.

F. S. RICHARDS,
Speaker of the House of Representatives.
D. W. C. SENTER,
Speaker of the Senate.

PUBLIC ACTS 1868-9, CH. 38, P. 50, PASSED FEB. 25, 1869.

AN ACT to Liqnidate the State Debt contracted in aid of Railroad Companies in the State of Tennessee.

WHEREAS, Under the General Internal Improvement Laws of the State, passed from time to time, aid has been granted to various railroad companies by the loaning of the six per cent. bonds of the State, to enable said companies to iron, equip, build and bridge, and for other purposes, which is now secured to the State by a first mortgage or lien on the franchise, property and fixtures of respective railroad companies ; and,

WHEREAS, It is desirable for the general welfare of the State, that the State shall be reimbursed such amounts as have been advanced to the different railroad companies as fast as may be practicable; therefore—

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the respective railroad companies, or either of them that have created indebtedness to the State, are hereby authorized to repay any amount of the principal of such indebtedness as they have respectivly created in the bonds of the State, in such amount, and at such times, as may be practicable. *Provided however*, that nothing in this act shall be so construed as to release said railroad companies from any lien which the State may have on the same for any unpaid interest now due on said bonds of the State authorized to be surrended by this act.

SEC. 2. *Be it further enacted*, That any railroad company or companies repaying any indebtedness due the State under the provisions of this act, are authorized to issue bonds of equal amount and denomination with the bonds of the State paid and delivered up for cancellation, as hereinafter provided, which said railroad bonds so issued in lieu of any equal amount of State bonds, shall be certified to by the Comptroller and entered in a book to be kept for that purpose with date, number and amount, and shall be a lien *pro rata* in amount, and of equal validity and effect with the unretired part of the State indebtedness upon such railroad and all its property, franchises, fixtures and material.

SEC. 3. *Be it further enacted*, That in order to facilitate the railroad companies that may wish to avail themselves of the provisions of this act in repaying the indebtedness due to the State, respectively, they, or any of them, are hereby authorized to consolidate their property in whole or in part with other railroad companies, and issue bonds and stock as provided for in the second section of this act, and may adopt the corporate franchise of either of the roads as the stockholders may elect, and each railroad company paying its indebtedness, and such railroad companies as may consolidate under the provisions of this act, are hereby authorized to determine by a vote of the stockholders of said company or consolidated companies, the number of directors of such company, and elect the same under the new organization, and that the said directors so elected shall, according to the by-laws and rules of said corporation, elect one of their number President of said company.

SEC. 4. *Be it further enacted*, That the Comptroller of the State shall receive from the railroad companies, or any of them, bonds of the State in such amounts as may be presented and cancel the same in the presence of the officer or agent of the railroad company paying therein, and execute to said railroad company or companies, duplicate receipts for the amount and number of said bonds so paid in, and it shall further be the duty of the Comptroller to certify on the bonds of any railroad company or companies repaying indebtedness due to the State, that the same has been paid, and that the so certified [bonds] are secured by first mortgage ; *Provided*, that said railroad companies shall liquidate their indebtedness prior to the maturity of the bonds that have caused said indebtedness ; *And be it further provided*, that said bonds when executed by the respective railroad companies or either of them, shall be deposited with the Comptroller of the State, whose duty it shall be to deliver said bonds, or any number of them to the president and directors of the company, on the deposit by said president and directors or authorized agent, an equal amount of the six per cent. bonds of the State of Tennessee, with unpaid coupons attached, and the company's first mortgage bonds, authorized to be issued by this act shall have no validity or value, except the Comptroller's certificate is affixed on the face of each bond, that said bond is executed and issued and by virtue of law takes the place of a bond of the State, and is a first mortgage bond.

SEC. 5. *Be it further enacted*, That the Comptroller shall be entitled to a fee of one dollar on each thousand dollars of the bonds certified as aforesaid, to be paid by the railroad company for which the same is done, and it shall be lawful for the Comptroller to discharge the duties imposed by this act, by an through an agent in the city of New York, and all the provisions of this act shall attach to and become a part of the charter of any railroad company or companies acting under it.

SEC. 6. *Be it further enacted*, That by and with the consent of the board of directors of any railroad company in this State under the General Improvement Law, passed the 11th of February, 1852, and all the amendments thereto, that any person or corporation may, by paying the indebtedness of such railroad company to the State in the bonds of the State, as provided for by law, be and they are hereby substituted and entitled to all the liens against said company for the payment of said debt that the State had or has by law, and the Governor and Secretary of State shall give such party or parties paying such indebtedness a certificate, showing the facts, which shall be evidence against company of such indebtedness to said individuals or corporation.

SEC. 7. *Be it further enacted*, That any person or persons may, with the consent and approbation of any railroad company which is indebted to, and for which the State of Tennessee holds a lien, pay the said debt so far as the State is concerned in the bonds of the State or any coupons of bonds at par, and the person or persons so paying the debt of any railroad company with the consent of such railroad company, shall, upon filing with the Treasurer of this State, the written assent of said railroad company, under the corporate seal of said railroad company, be entitled to have and hold all the lien or liens which the State of Tennessee had or has upon said railroad or its property, and shall have the same right to enforce the same which the State of Tennessee had, the object and intent being to place the person or persons so paying with the consent of said railroad company, in the same position and with the same rights which the State of Tennessee had previous to and before the said payment, and with full power to enfore the same.

SEC. 8. *Be it further enacted*, That any person or persons who may, with the consent and approbation of any railroad company, pay any part or portion of the indebtedness of such company as provided in sec. —, shall have, hold and subrogated in all the rights, privileges and lien or liens of the State, to the extent of, and in proportion to the amount of such indebtedness, with the same rights and privileges the State now has to the extent of such payment or payments; *provided*, the passage of this act shall not decrease the lien of the State upon any railroad of the State, until the entire claim of the State is fully liquidated, or affect the interest of the present bondholders of the State; *provided*, that railroad companies which have issued second mortgage bonds, availing themselves of the provisions of this act, shall file with the Comptroller bonds of the same series as those loaned to such company, for which the State holds a first mortgage lien; *provided*, the bonds to be issued by the Company under the provisions of this act, shall not have a longer time to run than the bonds of the State thus released and canceled.

SEC. 9. *Be it further enacted*, That this act shall take effect from and after its passage.

F. S. RICHARDS,
Speaker of the House of Representatives.
P. P. C. NELSON,
Speaker of the Senate.

Public Acts 1869–70, Ch. 3, P. 4, Passed Oct. 26, 1869.

AN ACT to change the Mode of Appointing Receivers on Delinquent Railroads in this State.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That where any railroad company in the State has failed, or may hereafter fail, to pay the interest upon bonds loaned by this State to such road under the provisions of law, and such fact shall be made known to the Governor by the Comptroller, the Governor shall at once notify the president of said railroad company to come forward and execute bond in the sum of one hundred thousand dollars, with a sufficient number of securities, to equal at least two, possessing property in the aggregate, liable to execution, equal in value to the penalty of the bond, payable to the State of Tennessee, and conditioned for the faithful discharge of his duty as receiver of the State in the management of said road, and that he will receive the rents, issues and profits, and pay the same, after deducting the necessary repairs and running expenses of said road, into the treasury of the State, who, upon executing said bond, shall, under the supervision of the directory of his road, be clothed with all the powers and be subject to all the liabilities now imposed by law upon receivers for delinquent railroads in this State, and shall be, by virtue of the execution of said bond, receiver of said railroad company, as heretofore provided by law; *provided*, he shall not be entitled to pay for the services imposed by this act, other than his salary as president. Said bond shall be approved by the Judge of the judicial circuit in which the president or receiver resides, and be filed in the office of the Comptroller.

SEC. 2. *Be it enacted by the authority aforesaid*, If the president of any railroad company in this State, upon receiving notice as prescribed in the first secton of this act fails or refuses to execute the bond required in said first section, then the Governor shall forthwith appoint a suitable person at the expense of the company, as receiver thereon, who, upon executing bond in the manner prescribed in the first section of this act for president, shall be clothed with all the power and be subject to all the liabilities now imposed by law upon receivers of delinquent railroads in the State; and he shall be entitled to receive for his services as receiver the same compensation which before that time had been paid to the president of said railroad company; provided the same shall not exceed three thousand dollars per annum.

SEC. 3. *Be it enacted by the authority aforesaid*, That every president or other person appointed receiver under authority of this act, shall make a report monthly to the Comptroller of the State, showing the amount of receipts and expenditures on said railroad for each month preceding; and pay over to the Treasurer of the State, upon the Comptroller's warrant, at the time of said report, all money which may or should be in his hand, arising from said road, over and above the necessary repairs and expenses of operating and running said road.

SEC. 4. *Be it enacted by the authority aforesaid*, That any president or other person appointed receiver by authority of this act, who fails or refuses to make reports or pay over money as hereinbefore provided, shall, upon such fact being made know to the Governor, be dismissed from his office; and suit shall be at once instituted in the proper court against him and his securities upon his bond, for a breach of the conditions of said bond ; and if his refusal to pay over is wilful, he shall be guilty of a high misdemeanor, and upon conviction thereof in any court having jurisdiction, he shall be fined not less than one hundred dollars, nor more than one thousand dollars, and may be imprisoned not more han six months at the discretion of the court.

Sec. 5. *Be it enacted by the authority aforesaid*, That the Governor be, and he is hereby prohibited from issuing the bonds of the State to any railroad company in the hands of a receiver.

Sec. 6. *Be it enacted by the authority aforesaid*, That all receivers now appointed on railroads in this State, be removed, and said roads be placed in the hands of the persons as provided for in this act, and that all laws coming in conflict with the provisions of this act be, and the same are hereby, repealed.

Sec. 6. *Be it enacted by the authority aforeseid*, That this act take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Public Acts 1869–70, Ch. 31, P. 39, Passed Dec. 8, 1869.

AN ACT to Repeal all Laws Granting State aid to Internal Improvements in the State.

Section 1. *Be it enacted by the General Assembly of the of State of Tennessee*, That all laws of this State granting State aid to internal improvements, are hereby repealed, and that no further or additional State aid shall be granted or issued to any railroad or turnpike company in this State.

SEC. 2. *Be it further enacted*, That neither this act nor the act passed on the 28th of October, 1869, entitled An act to change the mode of appointing receivers on delinquent railroads in this State, shall be so construed as to prohibit the Governor from issuing the bonds of the State to pay for the superstructions or work that may have been contracted for by the directors of any railroad company in the State, where the contractor has actually bound himself to complete the same and contracted for the material.

SEC. 3. *Be it further enacted*, That this act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Reprosentatives.
D. B. THOMAS,
Speaker of the Senate.

PRIVATE ACTS 1869-70, CH. 21, P. 206, PASSED DEC. 9, 1869.

AN ACT to Accept, Confirm, Ratify and make Obligatory, a lease of the Nashville and Northwestern Railroad to the Nashville and Chattanooga Railroad Company.

WHEREAS, At a meeting of the Directors of the Nashville and Northwestern Railroad Company, held in the city of Nashville, on the 27th day of October, 1869, E. W. Cole, President of the Nashville & Chattanooga Railroad Company, submitted a written proposition, on the part of said Nashville & Chattanooga Railroad Company, for a lease to said company of the Nashville and Northwestern Railroad Company, for a term of six years, which proposition was in the words and figures following:

"The Nashville and Chattanooga Railroad Company propose to lease the Nashville and Northwestern Railroad, for the period of six years, upon the following terms and conditions:

"It will expend upon the road-bed, superstructures, bridges and trestles, and in the repair and purchase of rolling stock, within the next six months, the sum of $100,000; and, as speedily as possible, put the road in as good condition as other connecting roads,, and supply it with rolling stock sufficient to meet the requirements of the business of the road, in freights and passengers, and of the same quality and character as similar rolling stock of the Nashville and Chattanooga road, and continue to keep the road in good condition, and the rolling stock in like good order and condition, for and during the full term of the lease, and the same is fully ended; and to return the road and rolling stock in like order and condition, at the expiration of the lease; all repairs, improvements and additions, to be made at the usual, reasonable and customary prices, for the time being.

"The present rolling stock, material and personalty of the Nashville and Northwestern Railroad Company, on hand, and to be valued by three persons, one to be selected by each of the contracting parties, and they to select a third, and taken by the Nashville and Chattanooga road at the valuation, and returned in kind at the end of the lease, upon like valuation.

"The road shall continue, during the lease, to be operated on its present line, and upon every part of it, without discrimination against any part, unless with the consent of the Board of Directors of the Nashville and Northwestern Railroad Company; and the lessee shall so operate as to foster and encourage the local as well as through business; and such and so many trains for the accommodation of freight and passengers shall be run as are usual and customary on roads of similar length and importance, and necessary to perform the business offered.

"The tariff of through freights and passengers are to be ratably divided between the roads in proportion to the length of the two roads to each other, or the distances carried on each; and the local earnings are to be credited to the lessor.

"The lessee agrees to make no charge for use of tools, rent of shops, or yard room, or pay of yardmen at Nashville during the continuance of this lease.

"One-third of the salaries of the president, superintendent, secretary and treasurer, freight and passenger agent, and engineer, of the Nashville and Chattanooga Railroad Company, shall be paid out of the earnings of the Nashville and Northwestern Railroad; and the share of the lessor of these salaries shall not exceed the following sums: president, $3,000 per annum; superintendent, $2,000; secretary and treasurer, $2,000; general freight agent, $500; general passenger agent, $500; engineer, $1,000. There shall also be paid out of the earnings of the road the salary of an agent, to be appointed by the Board of Directors of the Nashville and Northwestern Railroad Company, as hereinafter provided, to superintend the interests of said company under this lease, which salary is fixed at $———. No other agent or officers shall be employed, except such as are necessary to operating the road, and devote their whole time and attention to the business of the road, and, as are usual in such cases, who shall be paid out of the earnings of the road, the same compensation which is allowed similar agents and officers of the Nashville and Chattanooga Railroad Company for similar services. The Board of Directors of the Nashville and Northwestern Railroad Company may elect an agent to hold his office during the pleasure of the board, to represent said company and protect its interests during the lease, whose duty it shall be to give a general supervision to all the business of the road, and all transactions under this lease; with the right to have free access at all times to the rolling stock, property and effects used in running the road, with a view to ascertaining its condition, and whether any or what repairs are required; and to the books of the business of the two roads, so far as they relate to or have any connection with the business or operations under this lease.

"He shall be consulted as to all expenses, ordinary or extraordinary, but without having the right to prevent them, if deemed necessary by the lessee. If, however, the agent shall dissent, the matter shall be suspended until the contracting parties have come to some agreement, or the matter arbitrated as hereinafter provided.

"The agent shall make a report to the board of the lessor at least once in every three months, or oftener if necessary or required.

"All matters of difference arising under this lease, either as to the operation of the road, the expenes incurred, or otherwise, which cannot be amicably adjusted by committees of the two boards, shall be submitted at once to the arbitrament and award of three railroad officers, or engineers, one to be selected by each of the parties, and one by these two, whose decision shall be final and binding on the contracting parties.

"All depot houses, sidings, buildings and appurtenances of the road shall be returned with the road bed and rolling stock in good order and condition at the expiration of the lease.

"Regular and exact accounts shall be kept by the lessee of all the earnings and expenditures in operating the road, to which the agent above provided for shall have full access; and monthly reports and settlements shall be made between the parties.

"The lessee is to have control of the road and of its operations under the lease, and to receive all the earnings of its business, and shall be entitled out of these earnings to pay the salaries as hereinbefore provided, and all the expenses of running the said road, and to reimburse itself the money advanced to put the road in good condition, and to furnish rolling stock as herein stipulated, with interest.

"Any surplus of earnings after these disbursements, shall be paid to the State of Tennessee monthly, at the expiration of each and every month during the time of the lease, to be credited to the interest due or to become due to the State upon the bonds issued to the lessor, and which are a lien, by statute, upon said road. If the surplus earnings should, during the term of lease, pay off the arrears of interest due the State, and exceed the interest which may thereafter fall due semi-annually, such excess shall be paid to the lessor or its order.

"It is further agreed that no agent or officer of either road shall be allowed to engage in any speculation or business connected, or have anything to do with the transportation or other business of the road.

"(Signed.) E. W. COLE.,

"*President of the Nashville and Chattanooga Railroad Company.*"

And WHEREAS, The Board of Directors of said Nashville and Northwestern Railroad Company, at their meeting aforesaid, having duly considered said proposition, recommend its acceptance to the stockholders of said company; and

WHEREAS, At a meeting of said stockholders, duly and legally called and held at the city of Nashville, on the 28th day of October, 1869, a majority of them voted in favor of accepting the proposition for said lease as above set forth; and

WHEREAS, Said Nashville and Northwestern Road is at present in the hands of the State authorities, whereby the assent of the State of Tennessee is made necessary to the consummation of said contract, and to the validity of said lease; and

WHEREAS, In the opinion of this General Assembly, it is manifestly to the interest of the State, as well as of said railroad companies, and the public, that said proposition should be accepted, and said lease approved, ratified and made obligatory on all the parties thereto; therefore

SEC. 1. *Be it enacted, by the General Assembly of the State of Tennessee,* That the above proposition be, and the same is hereby, accepted, and said Nashville and Chattanooga Railroad Company is hereby authorized to take possession of and control of said Nashville and Northwestern Railroad, and the property thereof, according to the terms and conditions of the proposition hereinafter set forth; *Provided*, That the present President and Directors of the Nashville and Chattanooga Railroad Company, and their successors in office, before entering upon the discharge of their duties under the foregoing lease, and before taking possession of said Northwestern Railroad, shall first enter into bond with two or more sufficient securities in the penal sum of one hundred thousand dollars, payable to the State of Tennessee, for the faithful performance of the terms and stipulations of said lease in each and every particular, and for a prompt and faithful compliance with the terms, provisions and restrictions hereinafter provided by law, which bond shall be approved by the Governor, Comptroller and Treasurer of the State, and filed in the office of the Comptroller.

SEC. 2. *Be it further enacted*, That the agent provided for in said lease, shall be chosen by the Board of Directors of said Nashville and Northwestern Railroad Company, with the concurrence of the Governor of the State—whose duty it shall be to report to the Governor as often as he is required by said lease to report to the Nashville and Northwestern Railroad Company—and he shall be regarded as a joint agent for said company and the State, and his salary—which shall be one hundred and fifty dollars per month—shall be paid out of the earnings of the Nashville and Northwestern Railroad.

SEC. 3. *Be it further enacted*, That nothing herein contained shall be so construed as to take the Nashville and Northwestern Railroad out of the provisions of any law or laws that may be passed by the General Assembly of the State; but the said Northwestern Railroad shall he subject to the provisions of such law or laws which may be passed as aforesaid, as though this act had never been passed.

SEC. 4. *Be it further enacted*, That the foregoing lease is ratified, subject to the provisions of this act, with the express reservation to the State of the right to terminate the same at any time without notice, by the act of the General Assembly of the State ; *Provided*, That should the State or a purchaser from the State, of said Nashville and Northwestern Railroad, demand possession of said road, before the Nashville and Chattanooga Road has been reimbursed of all necessary and proper expenditures in operating said Northwester Railroad from the earnings of said road, such excess of expenditures over earnings shall be paid by the State, or said purchaser, to the Nashville and Chattanooga Railroad Company.

SEC. 5. *Be it further enacted*, That this act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
JONATHAN MORRIS,
Speaker pro tem. of the Senate.

PUBLIC ACTS 1869–70, CH. 34, P. 43, PASSED DEC. 16, 1869.

AN ACT to Amend Section 1102 of the Code, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the State of Tennessee*, That Sec. 1102 of the Code of Tennessee be so amended as to embrace all parties in possession of any railroad in this State, whether in the hands of a Receiver or other parties, under said Receiver, and that where any railroad shall have heretofore been placed in the hands of any Receiver, and the same has been directed to be turned over to the President of said railroad company as such Receiver, under the provisions of An Act of the present Legislature, passed on the 26th day of October, 1869, that it shall be the duty of the Governor immediately to issue his warrant directed to the sheriffs of any counties through which such road runs, directing and commanding such sheriffs to take possession of such road, engines, cars, fixtures, property and books, depots, shops, and everything else belonging to said road, and turn the same over to the President of said road, whether the same shall be found in the possession of such Receiver appointed before the passage of such Act, or in the hands of any lessee, pretended lessee, agent of said Receiver, or other person: *Provided*, said President has given bond as required by said Act of October 26, 1869.

SEC. 2. *Be it further enacted*, That any sheriffs into whose hands such warrants shall come, shall have power, and it shall be their duty, to execute said warrants as herein directed, in any counties through which such, or any portion of it may pass, as fully as if the entire road was located within their counties.

SEC. 3. *Be it further enacted*, That any sheriffs receiving such warrants, shall have power to summon the posse of the county or counties in which such warrants are to be executed. Any sheriff failing or refusing to execute such warrants shall be guilty of high misdemeanors, and upon conviction shall, before any court having jurisdiction of misdemeanors, and be fined not less than $500, and shall be discharged from office.

Sec. 4. *Be it further enacted*, That any party having possession of such road, and whose duty it is to turn the same over to the President of said railroad company, by the Act of October 26, 1869, or under this Act, and who fails or refuses, upon the demand of said President to turn over said road immediately, with all the property, real, personal or mixed, and all the fixtures to him as the President of said railroad company, shall be deemed guilty of a high misdemeanor, and upon conviction before any tribunal having cognizance of misdemeanors, shall be fined not less than five hundred dollars ($500), and shall be imprisoned in the county jail at the discretion of the court trying the same, not less than three nor more than six months; and in addition shall pay to said railroad company, as damages for detention of said road, double the gross receipts of said road for each day the same may be detained, beside being liable at the suit of said company for any other damages they may sustain. The penalties herein named shall apply whether the demand is made before or after the application to the Governor for his warrant.

Sec. 5. *Be it further enacted*, That such railroad company, for the use of State, shall have (and the same is hereby declared) a lien upon all the property owned by Receivers, or owned by other parties running said road as lessees, or by, through, or under such Receiver, in any way, for all sums of money due or to become due and owing the State of Tennessee, to such railroad company, on account of or growing out of such Receivership or out of the connections of such parties with said road, under and by, through or in connection with such Receiver; any transfer made by such parties shall, as to such liability, be declared void.

SEC. 6. *Be it further enacted,* That this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

PUBLIC ACTS 1869-70, CH. 47, P. 61. PASSED JAN. 20, 1870.

AN ACT for the Payment of the State Debt.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That An Act entitled "An Act to liquidate the State debt contracted in aid of railroad companies in the State of Tennessee," passed February 25, 1869, be, and the same is hereby, amended so as to allow any railroad company which may be indebted to the State by reason of the bonds of the State loaned to said railroad company, to pay into the State, in liquidation of the principal of said indebtedness, any of the legally issued six per cent. bonds of the State of Tennessee outstanding, without regard to series or number; and such payment shall, to the extent made, be a full and perfect discharge of the lien which the State holds upon the property of such railroad company, held by virtue of the bonds of the State issued to such railroad company, whether they be the same bonds or the same series of bonds issued to said company under the Act passed February 11, 1862, and Acts amendatory thereof, or not.

Sec. 2. *Be it further enacted*, That railroad companies issuing their own mortgage bonds under the provisions of the Act which this is intended to amend, be allowed to fix the rate of interest which the said bonds of the railroad company are to bear; and all laws in conflict are hereby repealed: *Provided*, that when said railroad companies owe interest already due, coupons past due shall be taken by the Comptroller or Treasurer in discharge of such indebtedness for interest.

Sec. 3. *Be it further enacted*, That when any company under the provisions of this Act shall pay into the Treasury of the State bonds which have been issued by the State to said company, the said bonds shall be cancelled; but should any company, in discharge of its own debts, pay into the Treasury any bonds that were issued to other companies, that may still be indebted to the State, such bonds so paid in shall not be cancelled, but shall be held by the State as purchased bonds, retaining a lien for the State upon the road to which said bonds were originally issued until the debt of said road to the State shall be fully discharged, when the bonds so held shall be cancelled; *Provided*, that the provisions of this Act shall not be so construed as to allow the payment and satisfaction of debts created by bonds issued by the State, and upon which the State is secondarily liable, nor to the payment of the sinking fund, now required by law of the railroad companies of this State.

Sec. 4. *Be it further enacted*, That this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

HOUSE JOURNAL 1869-70, P. 326.

On motion of Mr. Rhea,
House bill No. 153 was taken up,
And the amendment of the Committee adopted.

Mr. Fleming offered the following amendment:

Be it further enacted, That when any Company, under the provisions of this act shall pay into the Treasury of the State bonds which have been issued by the State to said Company, the said bonds shall be cancelled; but should any company, in discharge of its own debt, pay into the Treasury any bonds that were issued to other companies that may still be indebted to the State, such bonds, so paid in, shall not be cancelled, but shall be held by the State as purchased bonds, retaining a lien for the State upon the road to which said bonds were originally issued, until the debt of said road to the State shall be fully discharged, when the bonds so held shall be cancelled.

Adopted.

Mr. Steele offered the following amendment:

Provided, That the provisions of this act shall not be so construed as to allow the payment and satisfaction of debts created by bonds endorsed by the State, and upon which the State is secondarily liable; nor to the payment of the sinking fund, now required by law of the Railroad Companies of this State.

Which was adopted.

The bill, as amended, then passed its third reading.

PUBLIC ACTS 1869-70, CH. 57, P. 72, PASSED FEB. 4, 1870.

AN ACT to Regulate the Appointment of State Directors in Railroad Companies.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That all laws and parts of laws authorizing the Governor of the State to appoint State Directors in railroad companies having received State aid, be and the same is hereby repealed.

SEC. 2. *Be it further enacted*, That hereafter the Governor of the State, by and with the advice and consent of the Senate, shall appoint, on the part of the State, in and for each railroad company that has received aid from the State in the construction of its road, a number of discreet men as Directors, who shall correspond in number with the amount of said aid, and shall bear the same proportion to such aid that the Directors of the company may bear to the interest of the stockholders; *Provided*, That the number of State Directors shall, in no case, exceed the number of Company Directors, nor in any instance be less than two; *and, provided further*, That said appointments shall be made so as to give each county as nearly as practicable along the line of such railroad an equal and just representation in such Board of Directors. The said Directors shall hold their offices for two years after confirmation and qualification; and the Directors so appointed, when confirmed, shall immediately enter upon the discharge of their duties. That the Agent provided for in section second of An Act passed December 9, 1869, entitled An Act to accept, confirm, ratify and make obligatory the lease of the Nashville and Northwestern Railroad to the Nashville and Chattanooga Railroad Company, shall not be appointed until the Directors provided for in this Act shall be appointed and confirmed, and a majority of them present at such meeting of said Directors.

SEC. 3. *Be it further enacted*, That when any railroad shall have liquidated its indebtedness to the State, the Governor shall not appoint Directors on the part of the State for said railroad ; and the duties of said officers at the time such indebtedness is liquidated, shall cease.

SEC. 4. *Be it further enacted*, That no person shall be eligible to serve as State Director on more than one road at the same time.

SEC. 5. *Be it further enacted*, That it shall be the duty of said Directors to attend the meetings of their respective Boards, and watch over and protect the interest of the State as far as practicable, in said railroads.

SEC. 6. *Be it further enacted*, That it shall be the duty of the Governor to make such nominations immediately after the passage of this Act.

SEC. 7. *Be it further enacted*, That the Governor shall not appoint exceeding two Directors for the State, for any railroad which has paid its interest upon bonds loaned or endorsed for such road.

SEC. 8. *Be it further enacted*, That this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

PUBLIC ACTS 1869-70, CHAP. 68, P. 85, PASSED FEB. 22, 1870.

AN ACT for the Relief of the Nashville and Decatur Railroad Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Nashville and Decatur Railroad Company be, and the same is hereby authorized to suspend the payment of the sinking fund until the first of January, 1872.

SEC. 2. *Be it further enacted,* That nothing in this Act shall be so construed as to compel the Nashville and Decatur Railroad to pay the sinking fund accruing in the years 1870 and 1871, until the next day of maturity of said sinking fund, after January 1, 1872; *Provided,* that nothing in this Act shall be so construed as to release the road from ultimate payment of such sinking fund.

SEC. 3. *Be it further enacted,* That this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

PUBLIC ACTS 1869-70, CHAP. 77, P. 93, PASSED FEB. 24, 1870.

AN ACT to Fund the Floating Debt of the State.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Comptroller of the Treasury shall fund the bonds of the State of

Tennessee now due, or which may become due on or before the first day of January, 1874; and the interest on the public debt now due, and which may become due on or before the first day of January, 1874; the bank notes of the Bank of Tennessee, issued prior to the sixth day of May, 1861, and not declared void by the amended Constitution of the State of Tennessee; and outstanding warrants on the Treasury. And to enable the Comptroller to perform the duty prescribed in this Act, he is hereby authorized and required, to call on the Governor of the State, and upon such demand, the Governor of the State is hereby directed to cause to be issued to the Comptroller of the Treasury, bonds of the State of Tennessee, with coupons attached, of denominations of not less than fifty dollars, redeemable by the State in not less than five, or not more than twenty years, at the pleasure of the State, bearing interest at the rate of six per cent., payable semi-annually at the office of the Comptroller of the Treasury, in the City of Nashville; *Provided*, the bonds so issued, shall not exceed the sum of three millions of dollars, and shall only be used at par in funding as herein provided.

SEC. 2. *Be it further enacted*, That the bonds of the State of Tennessee, the interest coupons of the bonds of the State of Tennessee, the bank notes of the Bank of Tennessee, and the warrants on the Treasury, that may be taken up and funded as provided for by this Act, shall be cancelled by the Comptroller and filed in a separate book, to be kept for that purpose only; and the Secretary of State shall keep in his office a particular description of the date, number and amounts of the bonds that may be issued by authority of this Act; and the Comptroller shall deposit in the office of the Secretary of State the bonds funded and cancelled by him, the coupons funded and cancelled, the warrants on the Treasury, and the bank notes of the Bank of Tennessee, funded and canceled; all of which shall be recorded in the office of the Secretary of State, in a book provided for that purpose alone; *Provided*, That the Comptroller of the Treasury, the Secretary of State, and the Governor, shall have and ceive no compensation for the duties required to be performed by them under the provisions of this Act.

SEC. 3. *Be it further enacted*, That the amount of interest now due, or that may fall due by the first day of January, 1872, to the State on bonds issued to railroad companies, may be paid by said companies on the bonds of the State or past due coupons, as the said companies may elect; and the Comptroller of the State is hereby authorized and instructed to receive said bonds or coupons in payment of the said interest due to the State, by said railroad companies: *Provided*, That no railroad company in this State, shall be entitled to the provisions of this section unless they have paid or shall pay, in cash, fifty per cent. of the amount of interest due and owing to the State by such railroad companies on the first day of July, 1869.

SEC. 4. *Be it further enacted*, That this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

PUBLIC ACTS 1870, CH. 54, P. 87, PASSED JUNE 30, 1870.

AN ACT to amend An Act to regulate the appointment of State Directors in Railroad Companies.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That an Act entitled "An act to regulate the appointment of State Directors in Railroad Companies," passed February 4, 1870, be so amended as to require the Governor to appoint an equal number of State Directors to the Company Directors in all Railroad Companies to which State aid has been granted, that are under lease and run by any other than the original Company to which the State aid was granted, whether the interest due the State from said Company be paid or not.

SEC. 2. *Be it further enacted*, That the said State Directors shall be appointed in the same manner and for the same length of time as provided in said act of February 4, 1870; and that this Act take effect from and after its passage, the public welfare requiring it.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved July 1, 1870.

D. W. C. SENTER,
Governor.

PUBLIC ACTS 1870, CH. 79, P. 126, PASSED JULY 1, 1870.

AN ACT Authorizing the Sale and Transfer of the Interest of the State in Delinquent Railroad Companies.

Whereas, Under an Act of the General Assembly of the State of Tennessee, passed December 7, 1867, entitled "An Act to amend the Internal Improvement Laws of this State, passed February 11, 1852," the Governor, Secretary of State, and Comptroller, are empowered, in their discretion, upon the failure of any of the railroad companies mentioned in said Act, "for two consecutive years, to pay the interest that may accrue upon the bonds loaned to them severally," to sell the Railroad track, railing, rolling stock, etc., upon such terms and conditions as they may deem best to secure the interest of the State, "and shall retain of the proceeds of said sale the amounts loaned to said companies, and the interest due on the same, with expenses of said sale," and,

Whereas, "The time has arrived when it is necessary to protect the interests of the State, and to secure the State from loss, in consequence of the issuance of bonds to the several railroad companies of the State, that a sale should be made of the interest of the State in each and every railroad company in this State, which has heretofore failed to pay the interest that has accrued on the bonds of the State loaned to it, or which may hereafter fail to pay the interest as it accrues on the bonds of State loaned to it; and,

Whereas, It is important to relieve the people of the burden now upon them, and by wise legislation endeavor to restore the public credit, which can be done by a proper enforcement of the legal rights of the State of Tennessee as against said railroad companies so in default; therefore,

Section 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the Governor of the State, Secretary of State, and Comptroller of the Treasury, and Robert J. McKinney, of Knox County, Francis B. Fogg, of Davidson County, and Archibald Wright, of Shelby County, be, and the same are hereby appointed Commissioners to sell the interest of the State of Tennessee in all the railroad companies of the State, "to whom the bonds of the State have been loaned, by the Act of Dec. 7, 1867, or former Acts, and which have failed, for two consecutive years, to pay the interest that have accrued upon bonds loaned to them severally;" and also in all railroad companies that may hereafter fail to pay the interest that may, or has, accrued on the bonds loaned to them severally, or that are now in default of payment of the interest which has accrued upon the bonds loaned to them severally, with full authority to make and perfect said sales in all cases where the said companies can dispose of the interest of the State of Tennessee in the defaulting railroad, for a sum of money equal to the amount of the bonds of the State of Tennesssee, with unpaid interest due upon them, and which bid may be discharged and satisfied by an equal amount of the bonds of the State of Tennessee, with accrued interest, legally issued by the State of Tennessee, in aid of said railroad company, or for any other purpose, and with full power to place the purchaser or purchasers in the quiet possession of the railroad so purchased.

Sec. 2. *Be it further enacted*, That if any Receiver, who shall have control of any, or either, of the railroads of the State, and which road may be sold by the Commissioners, under the first section of this Act, shall refuse to give possession of said railroad track, railing, rolling stock, etc., to the purchaser upon demand, the Governor of the State shall issue his warrant to the Sheriffs of the different counties through which the road may run, commanding them to put the purchasers in possession of the railroad, its property and effects, and the Receivers so refusing shall be guilty of a high crime, and, upon conviction, shall be fined in a sum of not less than one thousand dollars, and imprisoned at the discretion of the Court.

SEC. 3. *Be it further enacted*, That in the event said Commissioners cannot sell said defaulting railroads, or either of them, for the amount and upon the terms as prescribed in the first section of this Act, then the said Commissioners are authorized, after giving such public notice as they may deem advisable or necessary, to receive sealed bids from any person, persons or corporation, for the purchase of either of the delinquent railroads of the State, and, after giving thirty days notice of the time and place, shall open the bids so made, and the said Commissioners will report to this, or some subsequent General Assembly, and the best bid offered, with such recommendation as to them may seem best for the interest of the State, for the approval or rejection of the General Assembly.

SEC. 4. *Be it further enacted*, That no less than four of the Commissioners named in this act shall be competent to perform any duties required by this act.

SEC. 5. *Be it further enacted*, That the Commissioners, in making a sale of the interest of the State in any of the railroads, shall give the preference to the purchaser or purchasers, who will obligate himself, or themselves, to operate the road so purchased over its entire line, from terminus to terminus; and that as the public welfare requires it, this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved July 5, 1870.

D. W. C. SENTER,
Governor.

PUBLIC ACTS 1870, CH. 69, P. 116, PASSED JULY 7, 1870.

AN ACT for the Relief of all solvent Railroads that have paid the Interest on their Bonds.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That all solvent Railroad Companies, chartered by the Legislature of this State, who have up to this time, paid all the interest to the State, due on bonds loaned them by the State, be, and the same are hereby authorized to suspend the payment of the sinking fund until the first of January, 1872, in conformity with the provisions of an Act passed for the relief of the Nashville and Decatur Railroad Company on the 22d of February, 1870, Chapter 68.

SEC. 2 *Be it further enacted*, That the provisions of the second section of said Act, shall be adopted as part of this Act, and that this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved July 8, 1870.

D. W. C. SENTER,
Governor.

PUBLIC ACTS 1870, CH. 70, P. 117, PASSED JULY 7, 1870.

AN ACT to enforce Section 33, Article II, of the Constitution in relation to the issuance of Bonds of the State to Railroad Companies, under laws passed previous to the adoption of the present Constitution.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That no Bonds of the State of Tennessee shall be issued to any Railroad Company, incorporated in this State previous to the adoption of the present Constitution, and which, under the provisions of their charter and the general laws of the State extending State aid to railroads entitled to receive such bonds, if said Railroad Company, at the time of its application for the same, shall be in default in paying the interest upon the State bonds previously loaned to it, or that shall have heretofore or hereafter, and before such application, sold or absolutely disposed of any State bonds loaned and issued to it, for less than their par value.

SEC. 2. *Be it further enacted*, That it shall be a high crime or misdemeanor for the Governor, Secretary of State, Comptroller, or any other officer or agent of the State of Tennessee, to violate the provisions of the first section of this Act, and upon conviction he or they shall be fined in a sum of not less than five thousand dollars, and shall be removed from office, and shall be forever thereafter rendered incompetent from holding any office of honor or profit in this State.

Sec. 3. *Be it further enacted*, That the public welfare demands that this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved July 8, 1870.

D. W. C. SENTER,
Governor.

Public Acts 1870, Ch. 93, P. 146, Passed July 8, 1870.

AN ACT Appointing Commissioners under certain Circumstances to Lease Delinquent Railroads.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Governor of the State, the Secretary of State, and the Comptroller of the Treasury, and Robert J. McKinney, of Knox County, Francis B. Fogg, of Davidson County, and Archibald Wright, of the County of Shelby, be, and are hereby appointed Commissioners on behalf of the State, to take possession and control of all the delinquent railroads of the State, which have failed to pay the interest which has accrued upon the bonds of the State of Tennessee, issued to them severally, and which railroads the said Commissioners have been unable to sell and dispose of, under the laws of the State, as now or hereafter provided, and they are hereby authorized to lease them for a term of years to any person, persons, company or companies, that will bind him, them or itself, in a good and sufficient bond, with ample security or securities, conditioned that he, they or it, will take possession of the road, with all of its property and fixtures, and will, in good faith, operate said railroad for the length of time agreed upon, and that he, they or it, will keep said railroad and its rolling stock in proper repair for the purpose of preserving it from destruction; that he, they or it, will semi-annually, pay into the Treasury the State, in money or past due coupons, clipped from the bonds of the State of Tennessee legally issued for any purpose, an amount equal to the sum due on the bonds of the State of Tennessee issued in aid of said railroad company, with full power to put the lessee or lessees in possession of said road, its property and fixtures.

SEC. 2. *Be it further enacted*, That in the event said Commissioners cannot lease either or any of the delinquent railroads of the State, under and by virtue, and upon the terms and conditions expressed in the first section of this Act, then, and in that event, they may lease said railroad to any person, persons, company, or companies, upon such terms and conditions as they may deem best to secure the interest of the State, and place the lessee or lessees in possession, subject, however, to approval or rejection by the General Assembly of the State, to whom the Commissioners may report their action.

SEC. 3. *Be it further enacted*, That if any Receiver having control of either of the railroads of the State, and which road may be leased by the Commissioners under the first or second sections of this Act, shall refuse to give possession of said railroad track, railing, rolling stock, etc., to the lessee or lessees, upon demand, the Governor of the State shall issue his warrant to the Sheriffs of the different counties through which the road may run, commanding them to put the lessee or lessees in possession of the railroad, its property and effects, and the

Receiver so refusing shall be guilty of a high crime, and, upon conviction, shall be fined in a sum of not less than one thousand dollars, and imprisoned at the discretion of the Court.

SEC. 4. *Be it further enacted*, That a less number than four of the aforesaid Commissioners shall not be competent to perform any of the duties required by the provisions of this Act.

SEC. 5. *Be it further enacted*, That, as the public welfare requires it, this Act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved July 9, 1870.
D. W. C. SENTER,
Governor.

PUBLIC ACTS 1870–1, CH. 2, P. 5, PASSED JULY 8, 1870.

AN ACT directing the Attorney General to institute suits in the Circuit Courts of the State agains Railroad Receivers and their sureties.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Attorney General of the State is hereby directed to institute, in the name of the State, suits in the Circuit Courts of the county or counties in which the various Receivers of railroads, or any one or more of the sureties on their bonds, reside, to recover of said Receivers and their sureties the amount of any bonds of the State by them fraudulently received, or by them illegally received or by them fraudulently or illegally disposed of, by sale or otherwise ; or for the proceeds of bonds, legally received and legally disposed of, which they have appropriated to any other use than that prescribed by law, or for any damages that the State has sustained, because of their failure faithfully to discharge their duties as such Receivers, and for their failure, from time to time, to settle with the Comptroller as required by law, and to account for bonds received by them, or their value, or for their rents, issues, and profits, that came to his or their hands as such Receivers.

SEC. 2. *Be it further enacted,* That the Attorney General will also join in the same action by process or publication as to non-residents, or by attachment against the property of any non-resident defendant, any agent of said Receiver or Receivers, who was employed in the sale of said bonds, and the same were sold contary to law, or who had anything to do with said illegal sale of the bonds, or in the conversion of them in any mode other than what is authorized by law.

SEC. 3. *Be it further enacted,* That, as the public welfare requires it, this act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

Approved Dec. 6, 1870.

D. W. C. SENTER,
Governor.

Public Acts 1870–71, Ch. 20, P. 23, Passed Dec. 16, 1870.

AN ACT to amend an act to Fund the Floating Debt of the State, passed February 24, 1870.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That no railroad company shall hereafter be allowed to discharge the due interest of its indebtedness to the State, in bonds or coupons of bonds, unless such payment is made in past due bonds or past due coupons of the bonds of the State of Tennessee.

Sec. 2. *Be it further enacted*, That any provisions in the act to fund the floating debt of the State, passed February 24, 1870, inconsistent with this act, be, and the same is herby repealed, so far as it applies to due interest; and that this act take effect from and after its passage, the public welfare requiring it.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved December 21, 1870.

D. W. C. SENTER,
Governor.

Report of State Railroad Commissioners, House Appendix 1870–71, P. 997.

To the General Assembly of the State of Tennessee:

The undersigned Commissioners respectfully report to your honorable body, that, in pusuance of the Act of 1870, ch. 79, they proceeded, after due advertisement, to offer for sale, separately, the interest of the State in the several Railroad Companies, contemplated by said act, but failed to sell, or to receive a bid, for either road. This result was not unexpected. The proposal to sell the interest of the State in said Railroad Companies, under the Act of 1870, gave rise to various embarrising questions; some of which are of serious importance to the interests of the State, as well as to the stockholders, bondholders, and creditors of the several roads; and are well calculated—so long as they remain open and undetermined—to deter persons from buying, and, consequently, to defeat the laudable object sought to be accomplished by the act referred to.

Most of these questions are exclusively of a *judicial* nature. The legislative department of the government is not competent to deal with or make any final obligatory determination of them. This can only be done by some tribunal invested with full jurisdiction of the whole subject matter, and also of the person of all parties whose rights may, in any way, be affected by the prosed sale.

After a careful consideration of the subject, the Commissioners are of opinion that, before a sale should again be attempted, farther and more specific legislation is indispensably necessary—providing for the removal of existing obstacles to a sale under the Act of 1870, by a speedy and final determination of the multifarious legal questions affecting essentially the rights of all parties interested in said roads. Without this, it is obvious that the interest of the State must be sold, if sold at all, at a great sacrifice, and be followed, in all probability, by a multiplicity of vexatious and protracted litigation.

It may not be improper to remark here, that by the Act of 1870, the Commissioners were invested with the mere power to *sell* the interest of the State.

No authority was given them to consider of, or adjudicate any of the numerous questions that have arisen; and even had such authority been conferred, they would scarcely have felt justified in exercising it, as their proceedings would have been *ex parte*, and consequently not obligatory on other parties. Nor do they now assume to express an opinion upon any of the questions presented; but simply state, as briefly as possible, some of the more important of them, in order that the absolute necessity of father action on the part of the General Assembly, preliminary to a sale, may the more fully appear.

And in case of farther legislation, looking to a sale of the interest of the State, the Commissioners would respectfully suggest the propriety of *a sale on time*, and payment in instalments, upon such stringent conditions as would coerce prompt compliance with the terms of sale on the part of the purchaser: say, let twenty-five per cent. of the amount agreed to be paid be required in hand, and the remainder at such intervals as might be deemed proper. The purchaser to pay the interest semi-annually on the whole amount agreed to be paid by him, from the time of his purchase; and his failure promptly to meet any further instalment to work an absolute forfeiture, to the State, of the payment or payments previously made by him; and, in addition, that the road should be instantly, upon such default, re-sold by the Commissioners.

The Commissioners would further suggest that the provision of the Act of 1870, fixing the minimum price of sale at the amount due from each Company to the State, is impracticable. They are fully satisfied that the interest of the State in some of the roads—especially the shorter and least valuable roads—cannot be sold for an amount even approximating the debts due the State. And in this view a minimum price ought either to be fixed upon each road, or a discretion vested in the Commissioners in regard to the price.

And in this connection, the Commissioners beg leave to express their approval of that feature of the Act of 1870 which secures to the purchaser the right to discharge the amount of his purchase in any of the legal bonds of the State. This provision, they believe will, in no small degree, facilitate a sale, and serve to enhance the price. And it cannot be of prejudice to the State, inasmuch as it is all the same to the State whether a given amount of its liability be extinguished by the surrender and cancellation of one set of bonds or another. The only conceivable objection, as it seems to the Commissioners, would be in the mouth of the purchaser himself; and that only in the event that it should be held that the bondholders have a lien on the road. But this objection is of no practical force if the State shall provide for the faithful discharge of its remaining outstanding bonds as they mature.

Having made these suggestions, the Commissioners proceed to present to the consideration of your honorable body some of the embarrassing questions before alluded to.

One of the difficulties is the ascertainment of the actual indebtedness of the some Companies to the State.

Shortly preceding the day appointed for the sale by the Commissioners, three injunction bills were filed at Nashville against the Commissioners—one by the Edgefield and Kentucky Road; another by the Memphis, Clarksville, and Louisville Road; and a third by certain creditors of said roads. An injunction to restrain a sale by the Commissioners was refused; but the Commissioners were enjoined, in case of sale, to retain of the proceeds an amount sufficient to cover the demands set up by the alleged creditors.

It seems that the Receivers of some of the roads contracted large debts, for the benefit of the roads as is alleged, to different persons, and on different accounts; and it is assumed that the State is liable for these debts; and upon this assumption the injunction was awarded.

How far these demands are just and *bona fide* it is not for the Commissioners to say; and if, upon a careful judicial investigation, they shall be found to be valid, whether the State can be held liable for their satisfaction, under the existing laws, must be left for the Court to determine.

It further appears, that after the roads were placed in the hands of Receivers, the Governor, under an Act of the General Assembly, passed in 1866, assumed, for the Memphis, Clarksville, and Louisville Road, a debt to the United States Government of between three and four hundred thousand dollars; and for the Edgefield and Kentucky Road, a debt of like character, of more than one hundred thousand dollars. These Companies insist that they are not liable for these debts.

It also appears that, by an Act passed in 1867, bonds of the State, to the amount of two hundred thousand dollars, were issued to the Henderson and Evansville Railroad Company.

This road lies beyond the limits of this State, and wholly within the territorial limits of Kentucky; and the proceeds of said bonds were exclusively applied to *its* construction. For this singular appropriation of the bonds of the State the Edgefield Company insists that it cannot be made liable.

It further appears that to the Edgefield and Kentucky Road, and to the Memphis, Clarksville, and Louisville Road, and, perhaps, to other roads, after they were placed in the hands of Receivers, bonds of the State to a very large amount were issued and delivered to said Receivers; which, it is alleged, were disposed of greatly under par; and it is now claimed by said companies that they are not properly liable to be charged with the bonds thus issued; but that, if held liable at all, it should not be for a greater amount than was actually realized from their sale.

It is manifest, that in regard to the issuance of bonds to some of the roads, and the reckless disposition of them, and general management of the roads, by some of the Receivers, a heavy responsibility rests somewhere; but upon whom it should fall, it is not within the province of the Commissioners to determine.

It need scarcely be stated, that the foregoing, and other questions raised by said companies, must be adjudicated before the amounts due from them, respectively, can be accurately stated; and it is apparent that this should be done before a sale of the State's interest is made.

Another question of importance, and in regard to which there is some diversity of opinion, is: What interest will vest in the purchaser of the State's interest in the road? What rights will be acquired, and what liabilities incurred by him? Will he, in all respects, stand in the shoes of the State as a mere assignee of the State's interest in the road? And in case the company, in the future, should find itself able to pay its arrearages of interest on its bonds to the purchaser, will such Company, as against him (in like manner as it would against the State if no sale had taken place), still be entitled to be restored to the possession of its road, as provided by Act of 1852, section 5?

Again: An important question, as to which there is, also, a wide diffierence of opinion, is: Have the holders of the bonds issued to a particular Railroad

Company a lien upon the road and property of that Company as security for the payment of such bonds at maturity, or have they no other pledge than the faith of the State?

In regard to some of the roads, this further question arises: After bonds to a large amount had been issued to certain companies by the State, said companies were empowered, by act of the General Assembly, to issue second mortgage company bonds, large amounts of which were actually issued and passed into the hands of *bona fide* holders; and subsequently to the issuance of such company bonds, a second issue of bonds of the State was made to said companies.

Now, upon this state of facts, the question is to be determined whether the lien of the State provided for by the Act of 1852 shall, as regards the second issue of bonds, be preferred over the lien of the intermediate holders of the company bonds, or be postponed to it?

The foregoing general questions involve various collateral and subordinate matters which it would be tedious to detail, and which, for the present purpose, need not be noticed, as enough has been stated, perhaps, to enforce the absolute necessity for such further legislation as shall seem best adapted to disembarrass the proposed sale.

The Commissioners further state that an effort seems to have been made, in some quarters, to prejudice the proposed sale of the State's interest in the roads, on the alleged ground of want of legal power in the State, under the Act of 1852, to make any sale of the same, except on default of the companies to meet the final payment of their bonds at maturity.

This objection, in the opinion of the Commissioners, has no foundation. The legal power of the State to assign and transfer its interest in a railroad (whether the company be in default or not), in the proposed mode of sale, can admit of no doubt. It cannot be held that the State, in this respect, is not possessed of, at least, equal power with every private individual mortgagee. And certainly, in view of the very comprehensive and cogent provisions of the 12th section of the Act of 1852, this must be reguarded as a very lenient exercise of power on the part of the State toward the companies that have, for a series of years, failed to perform the obligations of their contract with the State, created by the Act of 1852, in neglecting to meet the accruing interest on their bonds semi-annually and to provide a sinking fund. The spirit and reason of the Act referred to would, perhaps, sanction a much stronger measure of redress.

It might, with more plausibility, be maintained that the palpable violation on the part of the delinquent companies, of the fundamental terms of their charter, on the faith of which the credit of the State was loaned to them, amounted to a forfeiture of the entire benefit of their contract, so as to justify a sale, out and out, of the *corpus* of the property, without right of redemption. These companies cannot be heard to say that they may persist in neglecting to pay the interest on their bonds, and in providing a sinking fund; and that the State, though reduced to the verge of insolvency by their neglect, must silently stand by for a period of twenty years, more or less, until their bonds shall finally mature.

It is obvious that the remedy adopted, of placing the roads in the hands of Receivers, is illusory, as the experience of the past few years has sufficiently demonstrated. This expedient, so far from furnishing the Treasury with the means of meeting the accruing interest on the bonds of the delinquent companies, and providing a sinking fund, has resulted, in most instances, in a heavy loss to the State; and has likewise proved to be a fruitful source of fraud and corruption.

Better for the State to abandon its interest in the roads at once, than to attempt their further management through the agency of Receivers at such ruinous loss.

In conclusion, the undersigned would respectfully urge the speedy adoption of such measures as your honorable body may deem most expedient to relieve the credit of the State, and to arrest the rapid accumulation of the public debt, which is estimated to be, at present, not short of $2,500 per day.

D. W. C. SENTER,
FRANCIS B. FOGG,
A. WRIGHT, by F. B. Fogg,
T. H. BUTLER,
ED. R. PENNEBAKER,
R. J. McKINNEY.

Public Acts 1870–71, Ch. 23, 25, Passed Dec. 21, 1870.

AN ACT to amend the Act of 1870, chapter 79, for the sale of Interest of the State in Delinquent Railroad Companies, passed July 1, 1870.

Whereas, In the recent attempt to sell the State's interest in said roads, various legal questions arose, presenting serious obstacles to a sale under the act of 1870, which it is deemed expedient and necessary to obviate before the interest of the State in said roads shall be again offered for sale; and *whereas*, by the act of 1852, chapter 151, section 12, the right is expressly reserved to the State to enact all such laws in the future as should be deemed necessary to protect the interests of the State, and to secure the State against any loss in consequence of the issuance of bonds under the provisions of said act in such manner as not to impair the vested rights of stockholders of the companies; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennesee*, That a bill shall be immediately filed in the Chancery Court at Nashville, in the name and behalf of the State, to which all the delinquent companies, the respective stockholders, holders of the bonds, creditors, and all persons interested in the said several roads, shall be made parties defendants and shall be brought before the court in the mode prescribed bythe rules of practice in Chancery established in the State, except as otherwise herein provided. And said court is hereby invested with the exclusive jurisdiction to hear, adjudicate and determine all questions of law and matters of controversy of whatever nature, whether of law or of fact, that have arisen, or may arrise, touching the rights or interests of the State, and also of the stockholders, bondholders, creditors and others in said roads, and to make all such rules, orders and decrees, interlocutory and final, as may be deemed necessary in order to a final and proper adjustment of the rights of all parties, preliminary to a sale of the interest of the State in said road. Also to declare the exact amount of indebtedness of each of said companies to the State; and likewise to define, as may be thought proper, what shall be the rights, duties and liabilities of a purchaser of the State's interest in said roads, or either of them, and what shall be the reserved rights of said companies, stockholders, and others respecttively, as against said purchasers after such sale, under the existing laws of this State.

Sec. 2. *Be it further enacted*, That the Judge of said Court is hereby empowered and specially requested to appoint a special term of said court, to be held on the first Monday in March, 1871, for the purpose of expediting a speedy determination of the various matters contemplated by this act; and it shall be the duty of the clerk of said court, immediately on the filing of said bills, to issue process and make publication in the manner before indicated, requiring the defendants to appear at said special term; and the defendants shall be severally required at said term to put in such defense to said bills as they may respectively deem proper, provided that it be consistent with the Code. And in order to save expense, said parties, or any of them, may, in person or by attorney, with consent of the attorney for the State, make an agreed case, submitting all such questions as they may think proper, to the immediate decision of the Court. And it is further provided that, in the discretion of the Court, formal pleadings may be dispensed with by a simple statement on the record of the points or matters relied upon by the parties and sought to be decided by the Court.

Sec. 3. *Be it further enacted*, That if an account on behalf of either of the parties shall seem to the Court proper and necessary, touching any matters of fact in issue between the parties, an immediate reference of the same shall be made to the Clerk or Master, or, if thought preferable, to such special commissioner as the Court may appoint, who shall proceed at once to take such account, and make report to an adjourned term of the court, within such period as the the Court shall limit, not exceeding twenty days from the date of the decree ordering the account. And at such adjourned term final action shall be had upon said report. But the taking of such account shall not postpone the determination of all such questions of law presented by the parties as are not involved in the matters of account ordered to be taken.

SEC. 4. *Be it further enacted*, That competent counsel shall be retained on behalf of the State by the commissioners, whose duty it shall be, immediately on the passage of this act, to file a bill in said chancery Court so framed as to elicit a determination by the Court of all questions of law and matters of controversy now existing, or that may hereafter arise between the State and any or all of the parties interested in said roads, and to conduct the suit and superintend its progress, with a view to the speediest practical determination; and for such services said counsel shall be paid a fair compensation out of the public treasury of the State.

SEC. 5. *Be it further enacted*, That upon a final decree, being made by the Chancellor, settling the rights of the parties, either party shall have the right of appeal on writ of error to the Supreme Court, in the usual mode, except that the time for prosecuting a writ of error is hereby limited—in view of the urgent public necessity for a speedy determination—to thirty days from the final decree; and in case of an appeal or writ of error to the Supreme Court, a transcript of the record, or such part thereof as may be thought necessary, shall be filed in the office of the Supreme Court at Nashville within said period of thirty days.

SEC. 6. *Be it further enacted*, That in case of an appeal or writ of error to the Supreme Court as therein, provided for, the Judges thereof, in view of the pressing exigencies of the State, are hereby specially empowered, and respectfully requested, as soon as the transcript of the record shall be filed in the office of said Court, if then in session, to take up and finally dispose of the case, in preference to all other cases on the docket, and if not in session, to appoint a Special Term for the immediate hearing of the same.

Sec. 7. *Be it further enacted*, That in case any of the said railroad companies should decline a contest with the State in regard to the sale of the State's interest in their roads, a sale may at once be made, and upon the final determination of any controversy that may arise between the State and any of said railroad companies, in the Chancery or Supreme Court, the interest of the State in such roads immediately be brought to sale by the commissioners.

Sec. 8. *Be it further enacted*, That a specific value shall be fixed upon the State's interest in each of said roads by the decree of the Court, and the commissioners shall be authorized to dispose of the same at such valuation, either at public or private sale, as they may judge most advisable; and if a sale of any of the roads cannot be made at such a valuation, the same shall be sold for the highest price that can be obtained.

Sec. 9. *Be it further enacted*, That the interest of the State in either of said railroad companies may be sold on time, and the amount agreed to be paid by the purchasers may be discharged in any of the outstanding legal bonds of this State; but a sale on time shall be upon the following expressed conditions:

The purchaser at the time of sale shall pay, or deliver to the Governor, at least one-fourth of the amount agreed to be paid, in legal bonds of the State, and shall execute a bond with sufficient security, to the Governor, for the delivery of the remainder of the bonds to be paid at intervals of one two and three years from the date of the sale, in like legal bonds of the State, and also to pay into the treasury from the time of his purchase an amount equal to the interest accruing semi-annualy, from the remaining three-fourths of the bonds, to be thereafter delivered by him, until the whole amount shall be delivered to the Governor, said interest to be paid as the coupons mature; and it is expressly declared that the failure of the purchaser to pay or deliver to the Governor any subsequent installment of bonds as above provided, when the same shall fall due, shall work an absolute forfeiture to the State of all and every payment previously made; and in addition, his interest in such road shall be re-sold by the commissioners, after forty day's notice, to meet the default in payment by him.

Sec. 10. *Be it further enacted*, That upon the sale of any of the franchises of either of the railroad companies by the commissioners under the provisions of this act, all the rights, privileges and and immunities appertaining to the franchise so sold, under its act of incorporation and the amendments thereto, and the general improvement law of the State, and acts amendatory thereof, shall be transferred to and vest in such purchaser, and the purchaser shall hold said franchise subject to all liens and liabilities in favor of the State as now provided by law against the railroad companies.

SEC. 11. *Be it further enacted*, That whenever hereafter any existing railroad company, to which bonds of the State have been issued, or loaned, or any railroad company to be hereafter created, shall fail to pay to the State the interest due thereon for the benefit of the bondholders, or should fail to pay in as required by law the sinking fund, they may be proceeded against in the Chancery Court at Nashville, in the same manner as is above provided in regard to existing delinquent railroads.

SEC. 12. *Be it further enacted*, That this act shall take effect from and after its passage, the public welfare requiring it.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved December 22, 1870.

D. W. C. SENTER,
Governor.

PUBLIC ACTS 1870-71. CH. 43, P. 44, PASSED JAN. 18, 1871.

AN ACT Directing Suits to be brought in the name of the State of Tennessee, by the Attorney General, against Railroad Companies, their Officers, Agents and Stockholders.

WHEREAS, There has been information furnished this General Assembly that various railroad companies of this State through their officers, have fraudulently obtained the issuance of the bonds of the State, and also have obtained other bonds contrary to the provisions of the general internal improvement laws of the State, and the express provisions of the several acts granting to them State aid, and also have disposed of said bonds in direct violation of law, and also have illegally appropriated the proceeds to other uses than that prescribed by law, and the interests of the State demand that suits should be instituted for redress in the name of the State; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Attorney General of this State shall, forthwith, in the name of the State, institute suits in the Chancery Courts of the County of the place of business, of the Knoxville and Kentucky Railroad Company, of the Knoxville and Charleston Railroad Company, of the Rogersville and Jefferson Railroad Company, of the Mineral Home Railroad Company, of the East Tennessee and Western North Carolina Railroad Company, of the Southwestern Railroad Company, of the Edgefield and Kentucky Railroad Company, of the McMinnville and Manchester Railroad Company, of the Memphis, Clarksville and Louisville Railroad Company, of the Nashville and Northwestern Railroad Company, of the Winchester and Alabama Railroad Company, of the Cincinnati, Cumberland Gap and Charleston Railroad Company, and the Tennessee and Pacific Railroad Company, and against their Presidents, Directors, Agents and Stockholders, and all other person or persons having had anything to do with the receipt or sale of any of the bonds of the State issued in aid of either or all of said railroad companies, enjoining said railroad companies, their officers or agents, from disposing in any way of any of the bonds in their possession that may have been issued to them; and also asking of the Court, on the final hearing, for a decree against said railroad companies, either or all of them, their officers, directors and stockholders, for the full amount of all the bonds of the State, that said railroad companies, or either of them, their officers, agents, directors and stockholders, have heretofore fraudulently obtained, contrary to the true intent, meaning and provisions of the laws of this State granting aid to railroads, or to each one of said railroad companies; or that have been illegally disposed of by said railroad companies, their agents, officers, president, or directors, contrary to the law; or after the proceeds were received have appropriated said proceeds to other uses than those prescribed by law; and asking a decree against said raildroad companies, their President and Board of Directors, and against their stockholders individually, and against their agents, for the number of bonds so fraudulently received, for the number of bonds so illegally received, for the number of bonds so illegally disposed of, and for the amount of the proceeds of the bonds legally issued, received and sold, which has been illegally appropriated by said railroad companies, or either of them, their officers, agents, directors, or stockholders, to any other use or uses than those prescribed by law, whether by the general internal improvement law of the State, or by the special law granting to the respective companies additional State aid; *provided*, that suits shall in no case be instituted under this act against any railroad company by the said Attorney General, except by and with the consent, advice and concurrence of the commissioners appointed for the sale of delinquent railroads, viz: the Hon. R. J. McKinney, the Hon. F. B. Fogg, and the Hon. Archibald Wright, or by the consent, advice and concurrence of a majority of said commissioners.

SEC. 2. *Be it further enacted*, That if, upon the trial of said causes, the Court shall be satisfied that said railroad companies, or either of them, have been guilty of fraudulently obtaining bonds of the State to be issued to it, or of illegally obtaining bonds of the State to be issued to it, contrary to the provisions of the law granting the aid; or of appropriating to other use or uses than those prescribed by law the proceeds of the bonds so sold, or any of them; or of appropriating the bonds so received, or any of them, to other uses than those for which, under the law granting the aid, they, or any of them, could be be legally used; then, and in the event of either of said facts being by the Court judicially determined, then the said Court shall decree that said railroad company has forfeited all its rights and privileges under the general internal improvement laws of the State, and of the special laws under which the said railroad company claims to have received said State aid; and against the President and Board of Directors of said railroad companies, together with their stockholders and their agents who disposed of said bonds illegally, individually, for an amount sufficient to compensate the State of Tennessee for any loss it may have sustained, or that it may be liable to sustain, because of such fraudulent and illegal acts in regard to the receipt and sale of said bond or bonds, and for losses that may fall on the State in consequence of the commission of any other fraud by said company in the sale of said bonds against law, and the misappropriation of the proceeds.

SEC. 3. *Be it further enacted*, That the Attorney General shall include in the bills respectively filed all the charges contained in the 13th section of the act passed Feb. 11, 1852, entitled "An Act to Establish a System of Internal Improvements in this

State;" and the Court, in making its decree, will, as far as the interests of the State demand it, observe the provisions of that act, and make such decree as the law and evidence in each case justly demands.

SEC. 4. *Be it further enacted*, That the public welfare requires that this act shall take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Disapproved July 9, 1870.
D. W. C. SENTER,
Governor.

Reconsidered and passed the Senate, Dec. 20, 1870.

Passed over the veto of the Governor Jan. 18, 1871.

NEILL S. BROWN, JR.,
Principal Clerk of the House of Representatives.

PUBLIC ACTS 1870–71, CH. 105, P. 125, PASSED FEB. 1, 1871.

AN ACT to Provide for the Purchase of Railroads by the State under certain circumstances.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That if hereafter any railroad in this State, upon which the State has a lien, is sold under a decree of any Court, sitting as a

Court of Bankruptcy, the Comptroller of the Treasury be, and he is hereby authorized to bid the amount of the State's lien on the same, and if no higher bid is made to purchase the same for the State at said bid; and in the event a higher bid is made, he is hereby authorized to receive from the purchaser the amount of the State's lien in any of the outstanding bonds or past due coupons of the State, in full satisfaction of said lien.

SEC. 2. *Be it further enacted*, That, the public welfare requiring it, this act take effect from and after its passage.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved February 2, 1871.
D. W. C. SENTER,
Governor.

PUBLIC ACTS 1870–71, CH. 102, P. 123, PASSED FEB. 1, 1871.

AN ACT to Amend an Act passed December 21, 1870, entitled "An Act oj Amend the Act of 1870, Ch. 79, for the Sale of the Interest of the State in Delinquent Railroad Companies," passed July 1st, 1870.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the 4th section of an act passed December 21, 1870, to amend an act for the sale of the interest of the State in delinquent railroad companies, passed July 1, 1870, be so amended that the compensation allowed to each retained counsel shall be fixed by the Chancellor holding the Court, and shall not exceed two thousand dollars for each counsel, to be paid out of the fund arising from the sale of the delinquent railroad companies.

SEC. 2. *Be it further enacted*, That the Clerk and Master shall be allowed the usual fees for services rendered, but no commissions upon any sale that may be made under said act.

SEC. 3. *Be it further enacted*, That the Court shall, from time to time, make the Commissioners, McKinney, Fogg and Wright, such an allowance, each, for services rendered, as may seem just, not to exceed, in the aggregate, for each, three thousand dollars, to be paid out of the State Treasury.

SEC. 4. *Be it further enacted*, That whenever any railroad is sold by the Commissioners under this act, or the act this is intended to amend, and the terms of the sale have been complied with, the purchaser or purchasers shall, upon demand, have and be placed in possession of such road; and any lease of such railroad to any person or corporation by act of the General Assembly shall terminate on the day such demand shall be made; *Provided*, that should the State, or purchaser from the State of any such railroad, demand possession of said road before the lessee or lessees have been reimbursed, all necessary and proper expenditures in operating the road so leased from the earnings of said road, such excess of expenditures over earnings shall be paid to the lessee or lessees, in accordance with the stipulations of such contract of lease.

SEC. 5. *Be it further enacted*, That any reimbursement that may be justly due, authorized by act of the Legislature, to the lessee or lessees, for all necessary and proper expenditure in excess of the earnings in operating such railroad, shall be paid by the State out of the proceeds of the sale of the road; and the Commissioners for the State shall have full power to make such settlement with said lessee or lessees. This act to take effect from and after its passage, the public welfare requiring it.

W. O'N. PERKINS,
Speaker of the House of Representatives.
D. B. THOMAS,
Speaker of the Senate.

Approved February 3, 1871.
D. W. C. SENTER,
Governor.

PUBLIC ACTS 1870–71, CH. 116, P. 134, PASSED FEB. 2, 1871.

AN ACT to Encourage Retirement of the State Debt Incurred by the Issuance of State Bonds to Railroad Companies.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That either or any of the railroad companies in this State may issue their respective company bonds, in such amount, and bearing such rate of interest, not exceeding the legal rate of interest at the place where payable, as may be determtned on by stockholders representing a majority of all the stock in the company of which bonds are proposed to be issued; and may secure the payment of such bonds, principal and interest, by mortgage of the franchises, roadbed, superstructure, equipment and property of every description of such rail-

road company; *Provided*, the mortgage above authorized shall not be so construed as to interfere with prior liens, especially the liens of the State in the existing mortgage in favor of the State; *and provided further*, that nothing herein contained shall be construed in any way to impair or diminish the priority of the State's lien upon the property which may be mortgaged as herein provided for; and expressly bonds which have been or hereafter may be issued by the State, shall be and remain a first lien on all property of every description of the railroad company to which said bonds may have been issued.

SEC. 2. *Be it further enacted*, That this act shall take effect from and after its passage, the public welfare requiring it.

W. O'N. PERKINS,
Speaker of the House of Representatives.

D. B. THOMAS,
Speaker of the Senate.

Approved February 3, 1871.

D. W. C. SENTER,
Governor.

PUBLIC ACTS OF 1871, CH. 22, P. 21, PASSED NOV. 9, 1871,

AN ACT authorizing Railroad Companies to consolidate with each other, by a sale of the property and privileges of one or more companies to another; and providing for the issuance of Railroad Bonds after such consolidation.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That any railroad company heretofore incorporated, or here after to be incorporated, by the laws of this State, shall have the right and power to purchase the road-bed, right of way, depots, rolling stock, franchises and other property belonging to any other railroad company, or railroad companies, heretofore incorporated or hereafter to be incorporated by the laws of this State, the said railroad company thus making the purchase being invested with authority over the road or roads, whether wholly or partially finished and equipped, their property and franchises bought as aforesaid, in as full and ample a manner as if the road or roads thus purchased had constituted a part of the original property of the purchasing company under its corporate organization and the legal amendments thereto, the name and style of which purchasing company is thereafter to be used in all suits, contracts, and other business growing out of the purchase and consolidation as aforesaid. but no purchase, sale or consolidation under this act shall interfere with or divest any rights or liens held by any person or incorporation on or against any road so purchased, sold or consolidated as aforesaid.

SEC. 2. *Be it further enacted,* That in case the railway company, whose corporate powers have been transferred by a sale as aforesaid, has brought suits in law or equity, or holds any claims or rights of action, excepted and reserved by the terms of said sale, the corporation may have a continuance sufficiently long for the purpose of collecting said claims and paying to or dividing the same among the stockholders or the parties entitled thereto.

SEC. 3. *Be it further enacted*, That the company making the purchase or purchases, as aforesaid, shall have the power and authority to issue bonds for the purpose of finishing, equipping, paying for, or repairing said roads purchased as aforesaid; and for the payment of principal and interest of said bonds, the said roads, the road-bed, rolling stock, depots and other property thus purchased, all or a part as may be agreed on by the contracting parties, may be mortgaged therefor, and in addition to the security afforded by said mortgage the other property of said company is, of course, to be generally liable for the payment of the same; *Provided*, that this act shall in no way impair any lien or mortgage or priorities of lien that the State of Tennessee has upon any of the said railroad companies or upon the property of said companies. *Provided further*, that nothing in this act shall prevent the State, its officers or agents, or the Commissioners for the State or their agents or attorneys, from enforcing the collection of any notes or bonds executed by any railroad company or companies, to the State or its agents or attorneys, but all such notes, bonds or mortgages may be enforced against all railroad companies in this State, to the same extent and in as full and complete and speedy a manner as if this act had not been passed, and nothing in this act shall be construed to alter, abolish, postpone or in any manner to modify the lien which the State now has, or may hereafter have, on any railroad, its franchises and its property.

SEC. 4. *Be it further enacted,* That the public welfare requires that this act shall take effect immediately on its passage.

JAMES D. RICHARDSON,
Speaker of the House of Representatives.
JOHN C. VAUGHN,
Speaker of the Senate.

Received at Executive Office November 13, 1871, and approved November 16, 1871.

JOHN C. BROWN,
Governor.

PUBLIC ACTS 1871, CH. 32, P. 30, PASSED NOV. 17, 1871.

AN ACT to provide for the cancellation of bonds, and to repeal certain provisions of section 3 of an act passed January 20, 1870, entitled, "An Act for the payment of the State debt."

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That section 2d of the act of the 20th of January, 1870, be so amended as that all the bonds and coupons of the State of Teneseee, retired by railroads under the various acts of the General Assembly of the State, or which have been paid to the Comptroller by the purchasers of delinquent railroads, or that may have come into the hands of the Comptroller from any source, shall be mutilated by a punch or perforation through the face of said bonds and coupons, which mutilation shall be notice to all the world that said bonds and coupons are worthless for all purposes except to the State of Tennessee in establising and enforcing any liens which the State may have acquired by the issuance of its bonds in aid of railroads.

SEC. 2. *Be it further enacted*, That a committee of five on the part of the House, and three on the part of the Senate, be appointed to carry out the provisions of the first section of this act.

SEC. 3. *Be it further enacted*, That any bonds which may be received by the Comptroller, after the discharge of the committee provided for in the preceding section of this act, shall be, when received, mutilated as provided for in the first section of this act, by the Comptroller, Secretary of State and Treasurer, in the presence of the Governor.

SEC. 4. *Be it further enacted*, That this act shall take effect from and after its passage, the public welfare requiring it.

JAMES D. RICHARDSON,
Speaker of the House of Representatives.
JOHN C. VAUGHN,
Speaker of the Senate.

Received at Executive Office, November 23, 1871, and approved November 23, 1871.

JOHN C. BROWN,
Governor.

PUBLIC ACTS 1871, CH. 69, P. 59, PASSED DEC. 11, 1871.

AN ACT granting certain powers to existing Railroad Corporations.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That every existing railroad corporation in this State, whether created under a general or special law, shall have the right and the power to acquire by purchase, or other lawful contract, and have, hold, use and operate any railroad, such railroad with its franchises belonging to any other railroad corporation; and likewise to have, hold, use and operate any such railroad with its franchises which it may have heretofore purchased or acquired; and also the power to borrow money and to issue its bonds therefor, or for any other indebtedness or liability which may incur or have incurred in the exercise of its lawful purposes, and to secure the payment of such bonds, with the interest thereon, by a mortgage of the whole, or any part of its railroad and equipments and other property and franchises, containing such provisions as its Directors shall approve; and also the power to consolidate itself with any other railroad corporation whose road shall connect with or intersect the road of such existing railroad corporation, or any branch thereof; and so to consolidate itself upon such terms and conditions and under such corporate name as shall be agreed upon in writing between such corporations respectively; *Provided*, that nothing herein contained shall affect or impair in any way any mortgage, right, lien or priority of the State of Tennessee, or the rights of any creditors of such corporations; and that no such consolidation shall be consummated, or be complete, until it and the terms and conditions thereof shall have been approved by a majority of the stockholders of such consolidating companies respectively; and *provided further*, that the agreement for such consolidation, together with the evidence of the approval thereof by such stockholders, shall be filed in the office of the Secretary of State.

SEC. 2. *Be it further enacted*, That no railroad incorporation indebted to the State of Tennessee, on account of its bonds issued to such road in aid of its construction, shall be entitled to the benefits of this act until such road shall have fully paid off and discharged such indebtedness; *Provided*, that this section shall not have the effect to impair or repeal any act passed by this General Assembly, but the same shall apply alone to the provisions of this act. And that this act shall take effect from and after its passage, the public welfare requiring it.

JAMES D. RICHARDSON,
Speaker of the House of Representatives.
JOHN C. VAUGHN,
Speaker of the Senate.

Received at Executive Office December 12, 1871, and approved December 12, 1871.

JOHN C. BROWN,
Governor.

PUBLIC ACTS 1871, CH. 144, P. 168, PASSED DEC. 13, 1871.

AN ACT to further enable railroad companies to pay their debts to the State, and complete the construction of their roads.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That such railroad companies in this State as are indebted to the State by reason of bonds loaned or indorsed, or by reason of the purchase of railroads or railroad property from the State, be and they are hereby authorized to mortgage their original property, and all property acquired by purchase from the State, for the purpose of issuing consolidated first mortgage bonds as hereinafter provided.

SEC. 2. *Be it further enacted*, That before the issuance of said consolidated bonds, and before said bonds are sold and delivered to the purchaser, the indebtedness due the State by reason of bonds loaned to the company so issuing them shall have been first paid to the Comptroller, or to his agent in the city of New York, and that the said company shall have deposited with the Comptroller, or his agent in the city of New York, an amount of the said consolidated mortgage bonds equal in amount to the bonds endorsed by the State for such company, which bonds when thus deposited shall be surrendered to the company, bond for bond, upon the return of said bonds, so indorsed by the State, which bond, when so returned shall be cancelled.

SEC. 3. *Be it further enacted*, That after the total indebtedness to the State is satisfied, as above provided, then in that event the remainder of the bonds or the proceeds thereof, may be applied to the construction, equipment, or repair of road, or in liquidation of any other indebtedness that may be deemed advisable by the company.

SEC. 4. *Be it further enacted*, That the purchaser or purchasers of any of the railroads or railroad property sold by this State, is or are hereby authorized to mortgage the railroads or railroad property as purchased, for the purpose of securing money for the payment of their indebtedness for the same, and the further purpose of completing the connections of said road so purchased; *Provided*, that the mortgage so authorized and the bonds issued thereunder, shall not interfere with, but shall be secondary to the lien retained upon said roads and railroad property by the State for deferred payments on the purchase.

SEC. 5. *Be it further enacted*, Tnat no company availing itself of the authority conferred by this act shall issue, of such consolidated first mortgage bonds, more than twenty thousand dollars per mile of the road so mortgaged.

SEC. 6. *Be it further enacted*, , That nothing in this act contained shall stop the State of Tennessee from questioning the validity of any bonds issued in aid of railroads in this State; *Provided*, that nothing herein shall have the effect to impair in any manner the lien of the State upon any railroad or railroad property for the payment of the debt of the State incurred on acconnt of bonds loaned or endorsed to such railroad, but such lien shall remain in full force and effect until all such bonds are retired ; *and provided further*, that this act shall not effect or repeal any portion of any other act or law heretofore passed at this session of the Legislature.

JAMES D. RICHARDSON,
Speaker of the House of Representatives.
JOHN C. VAUGHN,
Speaker of the Senate.

Received at Executive Office December 15, 1871, and approved December 15, 1871.

JOHN C. BROWN,
Governor.

EXTRACTS FROM MESSAGE OF GOV. JOHN C. BROWN, 1871. HOUSE JOURNAL AND APPENDIX, 1871, PP. 19, 20, 29, 30 OF APPENDIX.

The duties awaiting you are not only important, but most responsible. Your legislation will determine the question, whether Tennessee will provide for the payment of the large debt entailed upon her by the casualties and results of war, or whether it will be indefinitely postponed, until our credit is broken down, and the debt becomes so large, by accumulating interest, that its payment will bankrupt the people.

The legislation of the last two years, as it appears to me, precludes any discrimination in our bonds, upon any assumption of illegality in their issuance.

The act of the 25th February, 1869, as amended by the act of 20th January, 1870, chapter 44, permitting railroads indebted to the State by reason of bonds loaned to them, to cancel their obligations, with bonds of any series or number, in effect acknowledges a liability of the State to pay all outstanding bonds, not specially excepted by the act itself, or amendments thereto.

That act itself makes no exception. The act of 6th December, 1870, prohibits the Comptroller of the Treasury from receiving the bonds issued to "The Mineral Home Railroad Company," and the act of the 29th of June, 1870, forbids the redemption of the bonds issued to "The Insurance Company of the Valley of Virginia."

And by interdicting the reception of no other bonds, implied authority is thereby given to receive all bonds not excepted in those acts.

And this is an unmistakable declaration to the world that all other bonds issued under the semblance of law, are regarded as obligatory upon the State.

Accordingly, bonds to over eight millions of dollars have been retired and cancelled—nearly all of which are bonds issued since the war.

Other roads have purchased and are now purchasing bonds with which to cancel their liabilities to the State under the same act, which is unrepealed.

It would seem, therefore, that the State has, by implication, at least, admitted its liability for the payment of all outstanding bonds other than those specially interdicted.

The bonds outstanding are all of them doubtless in the hands of innocent holders.

These considerations alone are sufficient to determine the question that Tennessee must and will redeem the entire outstanding bonded debt, with the exceptions stated.

But, independent of this, and as question of sound State policy and justice to the holders of our our securities—some of whom are minors, some subjects of foreign governments, and many more our own citizens who made the investment under existing laws, relying upon the good faith of the State as implied by its legislation—we cannot discriminate between these bonds. And, therefore, it is only a question of time as to when we will resume the payment of interest.

. . . .

SOLVENT RAILROADS.

It is my duty to remind you, that unless you repeal existing laws permitting solvent roads to pay, in past due coupons, the interest on the bonds loaned them by the State, the State must continue to receive from them past due coupons in payment of interest, and pay the bondholder in currency, by taxing the people.

The bonds originally issued by the State, with subsequent bonds, to fund accrued interest, for which these solvent roads are liable, are as follows, to-wit:

Memphis and Charleston Railroad....	$1,864,387	45
Mobile and Ohio Railroad............	1,684,800	00
Mississippi Central Railroad..........	1,199,180	00
Mississippi and Tennessee Railroad...	417,800	00
	$5,166,167	45

The annual interest on this amount is about $300,000, and this yearly burden will continue until there are no past due coupons in the market.

The delay of the solvent roads that have not retired their indebtedness to the State, under the act of 20th January, 1870, to avail themselves of the benefits of the act, indicates an indisposition to do so.

And, inasmuch as more than eighteen months have elapsed since this legislation was adopted, I recommend that the act be either repealed, to take effect at some future time, not remote, or that its provisions be so amended at that the roads be required to pay all accrued interest, as well as the sinking fund not heretofore paid in.

The reason for this sugestion is, that ample time has elapsed for these roads to have aided the State in diminishing her outstanding indebtedness, under this most liberal legislation) if disposed to do so. And the continuance of this policy affords an opportunity for speculative transactions, injurious to the credit of the State, and in no way beneficial to the great mass of the people.

While the railroads of the State should be fostered, and receive all necessary aid and assistance, yet they must not be allowed to become oppressive monopolies, at the expense of the prosperity of the general community.

DELINQUENT RAILROADS.

There remain but three of the delinquent railroads unsold.

The information you have, through the report of the commissioners appointed to sell the delinquent roads, is all you desire on that subject. It will be a gratifying result when the State is entirely divorced from the railroad system.

And, although the sales will not realize all that was desired, and leaves a large debt to be provided for, yet the internal improvement system of Tennessee has added millions to her wealth, and diffused such energy and enterprise into every class of society, that no intelligent man can regret the policy which inaugurated the system, notwithstanding a large amount of appropriations made since the war may have been improperly expended.

Commerce, trade and manufactures have been promoted and multiplied, population has largely increased, and the value of real estate enhanced over one hundred millions of dollars.

PART V.

CODE OF TENNESSEE, ADOPTED 1857-8, SEC. 2030, PAR. 7. COMPILED FROM ACT OF 1797, CH. 43; 1805, CH. 16, SEC. 2; 1807, CH. 85, SECS. 3, 4; 1831, CH. 90, SEC. 1.

2030. The following writings may be registered:

. . . .

7. All mortgages and deeds of trust of either real or personal property.

CODE OF TENNESSEE, ADOPTED 1857-8. SEC. 2057, COMPLIED FROM ACT OF 1841-2, CH. 12, SEC. 12-2.

2075. Any of said instruments not so proved or acknowledged and registered, or noted for registration, shall be null and void as to existing or subsequent creditors of, or bona fide purchasers from the makers without notice; and in case of marriage contracts, shall be void as to existing or subsequent creditors of the husband. or purchasers from him without notice.

CONSTITUTION OF TENNESSEE, ADOPTED 1834.
ART. 11, SEC. 7.

SEC. 7. The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals, inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals, rights, privileges, immunities or exemptions, other than such as may be, by the same law, extended to any member of the community who may be able to bring himself within the provisions of such law; *Provided*, *always*, the Legislature shall have power to grant such charters of incorporation as they may deem expedient for the public good.

PART VI.

CONSTITUTION OF TENNESSEE, ADOPTED 1834.
ART. 1, SECTION 17.

SEC. 17. That all courts shall be open; and every man for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the State, in such manner and in such courts as the Legislature may by law direct.

PUBLIC ACTS 1855-6, CH. 113, P. 123. PASSED FEB. 28, 1856.

AN ACT to provide a remedy in favor of Private Individuals against the State of Tennessee.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That, hereafter, when any person may have any [right of action against the State of Tennessee, it shall be lawful for such person to institute his, her, or their, suit against the State, under the same rules and regulations that govern actions between private persons.

SEC. 2. *Be it enacted*, That whenever any person may wish to institute suit under the provisions of the first section of this act, service of process upon the Attorney-General of the district where the party may desire to institute suit, will be sufficient service to bring the parties before the Court; *provided*, ten days notice be given.

SEC. 3. *Be it enacted*, That in all suits brought against the State, or suits brought by the State against individuals, the Statute of Limitation shall not operate to interpose a bar to the successful prosecution of any such suits.

SEC 4. *Be it further enacted*, That in all cases where suits have been finally determined in favor of any person or persons, against the State, it shall be the duty of the Comptroller of the Treasury, on the judgment creditor in such case filing with him a certified copy of the record in said case, showing the amount of said recovery, to issue his warrant for the same.

CODE OF TENNESSEE. ADOPTED 1857-8. SECTION 2807.

2807. Actions may be instituted against the State under the same rules and regulations that govern actions between private persons, process being served upon the District Attorney of the district in which the suit is commenced.

PUBLIC ACTS 1865, CH. 36, P. 15. PASSED JUNE 10, 1865.

AN ACT to pay the current expenses of this Session of the General Assembly, and for other purposes.

SEC. 34. *Be it further enacted*, That section 2807 of the Code is hereby repealed.

PUBLIC ACTS 1873, CH. 13, P. 15. PASSED FEB. 21, 1873.

AN ACT to be entitled An Act to protect the State from suits and judgments.

WHEREAS, By Act of 1865, chapter 36, section 34, the General Assembly of the State of Tennessee repealed section 2807 of the Code of Tennessee, giving a right of suit against the State; and

WHEREAS, the validity of that repeal has been questioned; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the said 34th section of the Act of 1865, chapter 36, be held valid and in force from the date of its passage, and that the said section 2807 of the Code was, by said act, effectually repealed.

SEC. 2. *Be it further enacted,* That no Court in the State of Tennessee has, nor shall hereafter have any power, jurisdiction or authority to entertain any suit against the State, or against any officer of the State, acting by authority of the State, with a view to reach the State, its treasury, funds or property, and all such suits now pending or hereafter brought, shall be dismissed, as to the State or such officers, on motion, plea, or demurrer of the law officer of the State or counsel employed for the State.

SEC. 3. *Be it further enacted,* That the public welfare requiring it, this Act shall take effect from and after its passage.

Passed February 21, 1873.

W. S. McGAUGHEY,
Speaker of the House of Representatives.
A. T. LACEY,
Speaker of the Senate.

Approved February 28, 1873.

JOHN C. BROWN,
Governor.

PART VII.

CODE OF TENNESSEE, ADOPTED 1857–8, SEC. 1758.
COMPILED FROM ACT 1801, CH. 25, SEC. 1.

1728. No action shall be brought—

1. Whereby to charge any executor or administrator upon any special promise to answer any debt or damages out of his own estate;

2. Whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person.

3. Whereby to charge any person upon any agreement upon consideration or marriage; or,

4. Upon any contract for the sale of lands, tenements or hereditaments, or the making of any lease thereof for a longer term than one year; or,

5. Upon any agreement or contract which is not to be performed within the space of one year from the making thereof.

Unless the promise or agreement, upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorized.

PART VIII.

ACTS OF THE STATE OF MISSOURI OF 1851, pp. 265, 6 and 7. PASSED DAY OF 18—.

AN ACT to expedite the construction of the Pacific Railroad, and of the Hannibal and St. Joseph Railroad.

Be it enacted, by the General Assembly of the State of Missouri, as follows:

SECTION 1. When the Pacific Railroad Company shall produce to the Governor of the State satisfactory evidence, by the affidavit of the Treasurer and two of the directors of said company, that the sum of fifty thousand dollars collected on the capital stock of said company, has been expended by them in the survey, location and construction of their railroad, he shall cause to be issued and delivered to said company, as a loan of the public credit, special bonds of the State to the amount of fifty thousand dollars, bearing an interest of six per cent. per annum, from the time they are negotiated in the hands of the holder, payable semi-annually; and after the expenditure of the whole of said sum of fifty thousand dollars, realized from the sale of said bonds, whenever said company shall produce like proof to the Governor that they have expended the further sum of fifty thousand dollars of their own moneys, collected on their capital, in the actual construction of said railroad, the Governor shall in like manner cause to be issued and delivered to said company, further like bonds to the amount of fifty thousand dollars; and in like manner as often as said company shall from time to time furnish evidence of having expended from their own moneys, collected on their capital stock, further sums of not less than fifty thousand dollars each, in the construction of their road, and that they have also expended the whole proceeds of the sales of the bonds previously issued by the State, in the construction of their said railroad, the Governor shall cause to be issued and delivered to said company, further like bonds to the amount of fifty thousand dollars each time; *provided*, the total amount of State bonds to be issued and loaned to the said company, shall not exceed two millions of dollars; *provided*, that no part of the said bonds shall be delivered to said company until at least one million and a half of dollars has been subscribed, in good faith, to the capital stock of said company, and satisfactory proof thereof has been made to the Governor.

Sec. 2. When the Hannibal and St. Joseph Railroad Company shall produce to the Governor of the State satisfactory evidence by the affidavit of the Treasurer, and two of the Directors of said company, that the sum of fifty thousand dollars, collected on the capital stock of said company has been expended by them, in the survey, location, and construction of their railroad, he shall cause to be issued and delivered to the said company, as a loan of public credit, special bonds of the State to the amount of fifty thousand dollars, bearing an interest of six per cent. per annum, from the time they are negotiated in the hands of the holder, payable semi-annually; and after the expenditure of the whole of said sum of fifty thousand dollars, realized from the sales of said bonds, whenever the said company shall produce like proof to the Governor, that they have expended the further sum of fifty thousand dollars of their own moneys, collected on their capital, in the actual construction of said railroad, the Governor shall in like manner, cause to be issued and delivered to the said company, further like bonds, to the amount of fifty thousand dollars; and in like manner, as often as the said company shall from time to time furnish like evidence of having expended from their own moneys, collected on their capital stock, further sums of not less than fifty thousand dollars each, in the construction of their road, and that they have also expended the whole proceeds of the sales of the bonds previously issued by the State, in the construction of their said railroad, the Governor shall cause to be issued and delivered to the said company, further like bonds to the amount of fifty thousand dollars each time; *Provided*, the total amount of State bonds, so as to be issued and loaned to the said company, shall not exceed one and a half millions of dollars: *Provided*, that no part of said bonds shall be delivered to said company until at least five hundred thousand dollars in money or its equivalent, has been subscribed in good faith, to the capital stock of said company, and satisfactory proof thereof has been made to the Governor.

SEC. 3. No part of the said bonds shall be delivered to the said companies, or either of them, until the acceptance thereof shall be signified to the Secretary of State, by the filing in his office of a certificate of such acceptance under the corporate seal of the company, thus accepting, and the signiture of their President.

SEC. 4. Each certificate of acceptance so executed and filed as aforesaid, shall be recorded in the said office of the Secretary of State, and shall thereupon become, and be, according to all intents and purposes, a mortgage of the road of the company executing and filing their acceptance, as aforesaid, and every part and section thereof, and its appurtenances, to the people of this State for securing the payment of the principal and interest of the sums of money, for which such bonds shall, from time to time, be issued and accepted as aforesaid.

SEC. 5. The said bonds, thus issued to the Pacific Railroad Company, shall be denominated "the Pacific Railroad State bonds," and the said bonds thus issued to the Hannibal and St. Joseph Railroad Company, shall be denominated the "Hannibal and St. Joseph Railroad State bonds"; and the faith and credit of this State, are hereby pledged for the payment of the interest, and the redemption of the principal thereof.

SEC. 6. The said bonds shall be signed by the Governor, and countersigned by the Secretary of State, and sealed with the seal of the State, and shall be registered in the office of the Auditor of Public Accounts, and shall be of denominations not exceeding one thousand dollars each in amount, with coupons attached, and shall be payable to the order of the said companies respectively, and may be transferred by the endorsement of the respective Presidents of the said companies for the time being, and such endorsement shall be considered the act of the company; and a copy of this act shall be attached to each of said bonds.

SEC. 7. The said bonds shall be redeemable at the pleasure of the Legislature, at any time after the expiration of twenty years, from the date of the respective issues thereof; and the interest thereon, shall be payable semi-annually, in the city of New York, on the first days of January and July in each and every year.

SEC. 8. The said companies may sell or dispose of the said bonds issued to them respectively, at not less than par, and in such manner, time and place, as to them, or either of them, may seem most expedient, and the said companies, or either of them, may confer on any holder of any bond or bonds, transferred by them, the right to convert the same into stock of the company, at any time, not exceeding ten years from the date of such bond or bonds, and upon such terms and conditions, as the said company may deem advisable; and upon such conversion, the said company shall deliver up the said bond or bonds, so converted into stock, to the Governor, to be cancelled, who shall thereupon cause satisfaction thereof to be entered of record in the office of the Auditor of Public Accounts.

SEC. 9. Each of said companies shall make provision for the punctual redemption of the said bonds, so issued, as aforesaid, to them respectively, and for the punctual payment of the interest which shall accrue thereon, in such manner, as to exonerate the treasury of this State from any advances of money for that purpose; and the tolls and income which shall accrue from the use of their said roads, respectively, when the same or any part thereof shall be constructed, after paying the repairs and the necessary expense of operating the same, and conducting the business thereof, shall be, and are hereby pledged for the payment of said interest.

SEC. 10. No part of the bonds so authorized, as aforesaid, shall be issued to the said companies, or either of them until full and satisfactory evidence shall be given to the Governor, and approved by the Attorney General, that no prior lien or incumbrance has been created or exists on the road of the company applying for said bonds, or its appurtenances, except such lien as may have been created under this act.

Sec. 11. In case the said companies, or either of them, to which bonds shall, as aforesaid, be issued, shall make default in the payment of either interest or principal of the said bonds, or any part thereof, no more bonds shall thereafter be issued to such delinquent company, and it shall be lawful for the Governor to sell their road, and its appurtenances, by auction to the highest bidder, first giving at least six months notice of the time and place of such sale, by advertisement, to be published once in each week in the paper which shall publish the laws at Jefferson City, and in two public newspapers printed in the city of St. Louis; or to buy in the same at such sale, for the use and benefit of the State; subject to such disposition in respect to such road, or its proceeds, as the Legislature may thereafter direct.

This act to take effect and be in force from and after its passage.

Approved February 22, 1851.

PART IX.

MS. COPY OF ACTS OF MINNESOTA LEGISLATURE.

SESSION LAWS OF STATE OF MINNESOTA, 1857.

Act of July 22, 1857,

ENTITLED

An Act to execute the trust created by an Act of Congress entitled "An Act making a grant of land to the Territory of Minnesota in alternate sections, to aid in the construction of a certain railroad in said Territory, and granting public lands in alternate sections to the State of Alabama, to aid in the construction of a certain railroad in said State," and granting lands to railroad companies therein named.

Be it enacted, by the Legislative Assembly of the State of Minnesota:

CHAPTER I.

SECTION 1. All such persons as shall become stockholders in the company hereby incorporated, shall be and are hereby created and declared a body politic and corporate, by the name and style of the Minnesota and Pacific Railroad Company, and by that name shall have perpetual succession, and shall have and enjoy all the powers, privileges, franchises and immunities incident to a corporation; may acquire by purchase or otherwise, and hold, convey, sell and lease property and estates, either real or personal, or mixed; may make, have and use a common seal, and alter or renew the same at pleasure; may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended against, contract and be contracted with, and shall never set up the defence of usury to any contract in any court, and generally may do and perform all and singular the acts and matters which shall be necessary and conducive to the well-being of said corporation.

SEC. 2. The said corporation is hereby authorized and empowered to survey, locate, construct, complete, alter, change the location of, reconstruct, maintain and operate a railroad with one or more tracks or lines of rails on such route, and with such alignment and graduation as said company shall think proper, from Stillwater, by way of St. Paul and St. Anthony, via Minneapolis, to the town of Breckenridge, on the Sioux Wood river, with a branch from St. Anthony, via Anoka, St. Cloud and Crow Wing, to St. Vincent, near the mouth of the Pembina river.

SEC. 3. The said corporation shall have the right to enter upon any lands for the purpose of making surveys, and for the right of way, and may appropriate to its sole use and control for the purpose contemplated herein, land not exceeding two hundred feet in width throughout the entire length of its said railroads, may enter upon and take possession of and use all and singular any lands, streams and materials of every kind beyond the width of two hundred feet for the location and construction of depots and stopping stages, station grounds, and houses, for the purpose of constructing bridges, dams, embankments, excavations, spoil-banks, turn-outs, engine houses, shops and other buildings necessary for the constructing, completing, altering, maintaining, preserving, and complete operation of said railroad, all such lands, waters, materials and privileges belonging to the Territory or future State of Minnesota, are hereby granted to said corporation for said purposes. And this act shall be sufficient notice to all persons claiming any interest in the same, but lands owned or belonging to any person, company or corporation, may be taken and appropriated for the purposes aforesaid, and shall be valued and paid for in the manner hereinafter provided.

SEC. 4. The capital stock of said corporation shall be five millions of dollars, divided into shares of one hundred dollars each, which shall be deemed personal property, and may be issued and transferred in such manner and at such places as may be ordered and provided by the Board of Directors: who shall have the power to require the payment of sums subscribed by the stockholders, of such amount, in such manner, at such times and on such terms as they may deem proper; and on refusal or neglect on the part of the stockholders, or any of them, to make payment agreebly to such requisitions, the share or shares of such delinquents may, after thirty days' public notice, be sold at public auction, under such rules as said Board of Directors may prescribe, and surplus money, if any remain, after deducting the payments due with interest, and the necessary cost of sale, to be paid to such delinquent stockholder.

The Board of Directors hereby appointed shall cause books to be opened for the subscription to said stock in the city of St. Paul, upon the acceptance of this charter, of which notice shall be given by the publication in two or more newspapers published in St. Paul, and in one or more published in St. Anthony, and said books shall remain open ten days thereafter, and the said directors may also cause to be opened in such manner and at such other books places and times as they shall direct; and may from time to time increase the capital stock to aggregate amount not exceeding twenty millions dollars, whenever they may deem it expedient for the operations of said corporation to make such increase.

Sec. 5. All the affairs of said corporation shall be managed by a board of fifteen directors, who shall be stockholders, a majority of whom shall be citizens of the Territory, and who are hereby invested with all the powers of said corporation; they shall be chosen annually by ballot by the stockholders, at the annual meeting of the company, which shall be held on such notice and at such time as shall be prescribed by the by-laws, and at such place as shall be provided by the Board of Directors, and stated in such notice. The votes shall be delivered in person or by proxy duly authorized, and in all cases in which stockholders shall vote, each share of stock shall be entitled to one vote, and in all elections for directors, those stockholders equal to the number to be elected having the greatest number of votes, shall be deemed and declared elected. The elections shall be conducted in such manner as shall be prescribed by the by-laws of the company, and if from any cause an election of directors shall not be held at the time when, by the provisions of this act, or by-laws of said corporation, it should be had, the same may be held at any other time on notice to be given, as aforesaid; and until such election shall be had, the directors of the preceding year shall continue to act, and the corporation hereby created shall not forfeit nor lose any of its privileges, franchises, or immunities, by reason of the irregularity or want of such election.

Sec. 7. The following named persons are hereby appointed and shall constitute the first Board of Directors, whose term of office shall continue until an election shall be held, and their successors duly elected as herein provided, viz.: F. R. Delano, William Willins, Alex. Ramsey, Edmund Rice, R. R. Nelson, Wm. L. Ames, Richard Chute, Henry J. Wells, Abraham M. Fridley, Dwight Woodbury, Franklin Steele, S. B. Lowry, J. D. Crittenden, Charles H. Oakes, Daniel Bassett, whose duties and powers shall commence and be in force from and after the passage of this act.

SEC. 7. The said company shall have power to make, ordain and establish all such by-laws, rules and regulations as may be deemed expedient and necessary to fulfil the purposes and carry into effect the provisions of this act, and for the well ordering, regulating and securing the affairs, business and interests of the company: *Provided*, That the same be not repugnant to the Constitution and laws of the United States or the laws of this Territory. And the Board of Directors shall have power to establish such rates of toll and charges for the conveyance of persons and property upon its said railroad as they shall from time to time direct and determine; and to change the same, and to levy and collect the same for the use of the said company. The width of track shall be four feet eight and a half inches, and the iron used in the track shall be of approved quality and pattern, and the railroad shall be completed, furnished and equipped in a style and of a quality equal to the average of other first-class Western railroads. The construction of wheels, the form and size of cars, the weight of loads, the rate of speed, terms of running, connections with other railroads, and all other matters and things respecting the use of said railroad, shall be in conformity to such rules and regulations as said Board of Directors shall from time to time determine and establish: *Provided*, That at all crossings of the track of said railroad or branch with the track of any other railroad, the engine or cars arriving at such crossing shall come to a dead halt or stop before crossing the same. The said company shall have the right and authority to construct their said railroad and branches upon and along, cross under or over any public or private highway, road, street, plank road or railroad, if the same shall be necessary, and the said company shall put such highway, road, street, plank road or railroad in such condition and state of repair as not to impair or interfere with its free and proper use; and the said company shall have the right to erect and maintain all the necessary bridges for the use of said railroad over any stream of water or water course at such points of crossing the same as they may locate the said road or branches, with all necessary abutments, piers and other foundations; and said company shall have power to connect the said railroad or branches with any other railroad or branch thereof in this Territory or State, or in the State of Wisconsin, and to operate the same in connection with such other railroad or branch, under such name and on such terms as may be agreed upon by and between said companies, or to purchase from any other railroad company the whole or any part of any railroad or branch railroad owned by such company.

SEC. 8. A majority of the Board of Directors shall constitute a quorum for the transaction of business, and shall meet at such times and places, and be convened in such manner as they shall decide upon; shall elect one of their own number to be President, and one to be Vice-President. The President shall, when present, preside at all of the meetings of the Board and of the stockholders, and when absent the Vice-President shall discharge the duties of the President; and in case of the absence of the President and Vice-President, the directors may appoint a President *pro tem.*; shall have power to constitute an executive and prescribe its powers any duties; to appoint a Secretary, Treasurer, and such engineers, superintendents, agents and other officers as they may deem necessary, fix their compensation and demand adequate security for the faithful discharge of their duties, and fill any vacancy which may occur in their own board.

SEC 9. The directors shall issue certificates to the stockholders for the number of shares subscribed for or held by them respectively in said corporation, signed by the President and Secretary; subject, however, to all the payments due and to become due thereon, which stock shall be transferrable on the books of said company in such manner and under such regulations as shall be provided by the by-laws of the company.

SEC. 10. At each annual meeting of the stockholders the directors shall make a full exhibit and statement of the affairs of the company, and of their proceedings during the previous year, and special meetings of the stockholders may be called by order of the Board of Directors, or by the stockholders holding one-fourth in amount of the capital stock, on like notice as that required for annual meetings, specifying the object of the meeting, and no business shall be transacted at such special meeting except such as shall be particularly set forth in such notice, nor any vote taken unless a majority of all the stock of said company shall be then and there represented in person or by proxy.

SEC. 11. The said company is hereby authorized and empowered in its corporate capacity to borrow any sums of money from any person or persons, corporation or body politic of any kind, and for any rate of interest which may be agreed upon by and between said company and any person or party of whom such loan may be obtained, any law on the subject of usury in this territory or future State, or any State where such transactions may be made, to the contrary notwithstanding; and to make, execute and deliver all necessary writings, notes, bonds, mortgages, or other obligations, and securities in amount and kind as may be deemed expedient by said corporation, in consideration of any such loan, or in discharge of any liabilities which it may incur in the construction, repair, equipment or operating of said road; and the powers of the said company to the purposes aforesaid, and for all purposes necessary for carrying out the object of said company, are hereby ratified and confirmed, and the contracts and official acts of said company declared binding in law and equity, upon said company, and upon all other parties to said contracts.

SEC. 12. If said company shall not within ten days from the passage of this act accept the same by resolution, to be duly passed by the Board of Directors, and a copy thereof filed in the office of the Secretary of the Territory, then the same shall be null and void, and if accepted, then the said company shall, within fifteen months from the first day of September next, grade and complete, ready for iron, all that portion of said railroad from Stillwater, by way of St. Paul, to Saint Anthony, and within nine months thereafter, put in actual operation said road from Stillwater, by way of Saint Paul to Saint Anthony, and thereafter the work on said line of railroad and branch shall be complete, and put in operation at the rate of not less than thirty miles in each year, and within ten years from the 3d day of March, 1857, the whole of said railroad and branches mentioned in said act of Congress, and hereby authorized to be constructed by said company, shall be completed and in actual use.

Sec. 13. Whenever the line of said railroad and branches, or any part thereof, shall be located, and its route determined, the said company may apply to the Supreme, District or County Court in session, or any Judge thereof in vacation, for the appointment of three commissioners to make an appraisal and award of the value of, and any and all lands which are the private property of any persons on the line of said railroad and branches, or any division or parts thereof, which shall be designated in such application, and which the said company shall have entered upon, possessed, occupied or used, or which it may thereafter enter upon, take, possess, occupy or use for any of the purposes for which, by this act, the said company is authorized to enter upon, take, possess, occupy or use lands. The said company shall give notice of its intention to apply for the appointment of such commissioners by publishing the same at least ten days before the time for hearing such application in at least one newspaper, published in the county in which such land shall lie, but in case no newspaper be published in such county, then in a newspaper published in the city of Saint Paul, and upon an affidavit of the publication of the same, the Court or Judge to whom the application shall be made shall appoint three commissioners, who shall have cognizance of all cases arising on the line or route of said railroad and branches, or any division or part thereof, which shall be designated by said company in such application, and they shall proceed to examine the premises in each case separately, having first given such notice, as they may deem reasonable to such owner, guardian or husband, and at least five days personal notice to such owner, if resident in the county, and whenever it shall appear to said company or its officers, that the title of such land is in dispute, or that second parties claim interest therein by tax sales, tax titles, incumbrances, liens or equitable claims, the said commissioners, upon request of said company or its officers, give notice to all persons claiming any interest in such land, whether as owners, incumbrancers or otherwise, and when the person to be notified has no known residence in this Territory or State, within the knowledge of such commissioners, the notice may be by publication in a newspaper for such length of time as the commissioners shall deem reasonable, and after making such examination the said commissioners, or a majority of them, in each case separately, make an appraisement and award of the value of the land so entered upon, taken, possessed, occupied or used by said company for any of the purposes aforesaid, at the time the same was so entered upon and taken, and deliver one copy of their award in each case to the said company, and shall file another in the office of the Clerk of the Circuit of the District Court of the county in which lands shall lie, or of the county to which such county shall be attached for judicial purposes, with the costs of the award taxed upon each of the said copies, and if neither party shall appeal from said award in the manner heretofore provided, the said Circuit or District Court, on motion of the party in whose favor any award shall be made for such value aforesaid, unless such awards shall have been previously paid, shall enter up judgment in conformity with such award, and in case either of the said commissioners shall die, resign or decline to act, the Supreme, District or County Court or Judge shall appoint another commissioner in his stead, and the said company, or any party recovering notice from the said commissioners as aforesaid, may, within thirty days after such award shall have been filed with the clerk as aforesaid, appeal from the same to the Circuit or District Court for the county in which said award shall be filed, by filing with the clerk of said court a written notice of such appeal, and upon receiving such notice the said clerk shall enter the appeal as a case upon the docket of said court, setting down the owner or owners and person or persons claiming any interest in said land, embracing all persons so having received such notice from said commissioners, as plaintiff, and the said company as defendant, and the said court shall proceed to hear and determine such case in the same manner that other cases are heard and determined in such court, and all issues of fact arising therein shall be tried by a jury, unless a jury be expressly waived by both parties, but the appellant shall not be entitled to have the case tried at any term of said court unless he shall have given notice to the appellee or his attorney at least ten days before the first day of the term, that he will demand a trial at such term; but in case the appellee has no known residence in this Territory or State, or attorney of record residing therein, no such notice need be given; but in all cases the appellee may waive such notice, in which case the same rule for trial shall be applicable to it as to the other case in said court. After the hearing of such case, the jury, or if the jury be waived, the court shall assess the value of the land so entered upon, taken, possessed, occupied and used by said company at the time when the same was entered upon and taken, and after such assessment the court shall proceed to render judgment against said company for the amount of said assessment in favor of the plaintiff or plaintiffs in such case, and if the amount so assessed in favor of the said plaintiff or plaintiffs shall exceed the amount awarded by said commissioners, with interest at the rate of twelve per cent. per annum from the time of such award, and the time of such assessment by the jury or court, then judgment shall be rendered against said company for costs, and when the appeal shall be taken by the claimant, and it shall not exceed such amount and interest as aforesaid, then judgment shall be rendered in favor of said company for costs; and when the appeal shall be taken by the claimant, and it shall not exceed such amount and interest as aforesaid, then judgment shall be rendered in favor of said company for costs, and against said plaintiff or plaintiffs, and execution may issue accordingly. Either party shall be entitled to a change of venue for the trial of such cause on affidavit filed, stating the belief of the affiant, that a fair trial cannot otherwise be had; the change of venue shall be to the nearest county where a fair trial can be had. The judgment of the said Court may be reviewed on writ of error as other cases at law. Whenever the Commissioners shall make an award as aforesaid, and no appeal shall be taken from the same, or wherever, in case of an appeal, a final judgment shall be rendered, it shall be the duty of the Company, and not before, to pay to the party entitled to the same the amount of said award or judgment; and in any case where there shall be any lien, incumbrance, tax sale, tax title or equitable claim to or upon the land, or any part thereof, which is the subject matter of such award or judgment, or when more than one person shall be entitled to or shall set up any claim to the amount of such an award or judgment, or part of it, or when the person entitled to receive the same, shall not have any known residence within the Territory or State, the said Company may deposit the amount of such award when there is no appeal with the Clerk of the Court with whom the award in the case shall have been filed, and in case of an appeal and judgment thereon, the Company may deposit the amount of such judgment with the Clerk of the Court in which said judgment shall have been rendered, and the money so deposited in either case shall be paid over by order of the Court to the person or persons who shall be adjudged by the Court to be entitled to receive the same, and whenever the amount of such award or judgment shall have been paid or tendered or deposited as aforesaid, an absolute estate in the fee simple in such lands shall be and become vested in the said Company as against all persons so receiving notice from the said Commissioners as aforesaid, and all such persons as having received such notice shall be forever precluded from questioning such title so acquired by the said Company, and the said Company shall have full power and authority after entering upon and taking any such lands, to have, hold, possess, occupy, use and enjoy the same for any of the lawful purposes of the said Company from the time of such entry and taking until the proceeding contemplated by the act shall have been fully determined, and until said Company shall have refused, after demand made to pay, the value of said land so ascertained as aforesaid, and they shall not during such time, nor until such refusal, be disturbed in such possession or occupancy, use or enjoyment, by any proceeding, either in law or equity.

Sec. 14. If any person shall wilfully and knowingly injure or destroy any part or portion of the Railroads so to be constructed, or any works, building, or machinery attached to or in use upon the same, belonging to said Company, or shall wilfully and maliciously place obstructions or anything upon the track of said Railroad, such person or persons so offending shall, each of them for every such offense, forfeit and pay to said Company three times the amount of damages caused by such offense, which may be recovered in the name of said Company, by action of debt, in any court having competent jurisdiction, and shall also be subject to indictment, and on conviction of any such offense, shall be punished by fine and imprisonment, not exceeding ten years in the State prison, or either, at the discretion of the Court; and in case any accident shall occur in consequence of any such obstruction or damages to said road or machinery, whereby the death of any person shall be caused, the person so offending shall, on conviction, be adjudged guilty of murder in the first degree, and punished accordingly in such a manner as shall be prescribed by the statutes for the punishment of murder in the first degree.

SEC. 15. The property of every person vested in the stock of said company, shall be liable to be taken in execution for the payment of his or her debts in such manner as is or may be prescribed by law, but no tax shall ever be levied on the stock shares of said company, except the yearly payment to be made by said company as herein provided; and the shares held by any stockholder, when taken in payment of any other debt or liability of such stockholder, shall be subjected to all indebtedness and claims of every kind in favor of said company against the holders of said stock, which indebtedness and claims shall be fully paid, before said company shall be required to transfer said stock to any purchaser thereof, and before any such purchaser shall acquire any right or title thereto.

SEC. 16. For the purpose of aiding in the construction of Railroads hereby authorized, all the interest and estate present and prospective of this

Territory and of the future State, which shall succeed it, in or to any or all the land granted by the Government of the United States to Territory of Minnesota, for the purpose of aiding in the construction of a Railroad from Stillwater by way of Saint Paul and Saint Anthony, to a point near the foot of Big Stone lake, and the mouth of Sioux Wood river, with a branch via St. Cloud and Crow Wing to the navigable waters of the Red River of the North to the point hereinbefore mentioned, agreeably to the terms of act of Congress, entitled "An Act making a grant of land to the Territory of Minnesota, in alternate sections to aid in the construction of certain Railroads in said Territory, and granting public lands in alternate sections to the State of Alabama to aid in the construction of a certain Railroad in said State, approved March 3d, 1857, together with all and singular the rights, privileges and immunities conferred or intended to be conferred by said Act of Congress, are hereby granted to said Minnesota and Pacific Railroad Company, conditioned that said land shall be exclusively applied for the construction of that road for which it was granted; and provided that the title of said land shall vest in the said Minnesota and Pacific Railroad Company, in the manner following: that is to say—Whenever twenty or more continuous miles of said road shall have been located, the Governor of the Territory or future State, shall certify the same to the Secretary of the Interior, and thereupon the title to one hundred and twenty sections of said lands shall vest in the said company; and when twenty continuous miles of said road shall have been completed so as to admit of running regular trains on the same, the Governor shall certify the same to the Secretary of the Interior, and thereupon a further quantity of one hundred and twenty sections of said lands shall vest in said company, until said road is completed; and it shall be the duty of the Governor to certify to the Secretary of the Interior whenever any such miles are completed so as to admit of running regular trains of cars over the same, and the Governor shall in his official capacity, and on behalf of the Territory or State and under the great seal thereof, executed and delivered to the said Minnesota and Pacific Railroad Company, whenever it shall, by virtue of the provisions of this act be entitled to any of said land, a deed of fee simple of any and all of the lands to which said company shall be entitled.

SEC. 17. The location and designation of the route of the line of said railroad and branches shall be made by said company, and reported to the Governor from time to time; and as fast as the same shall be definitely located and established, and the selection of the lands provided for by the act of Congress aforesaid, shall be made as soon thereafter as practicable by said company, or such agents as it may designate, under the appointment of the Governor of the Territory or future State of Minnesota. Such selections, as well as the survey of said roads, and the compensation of such agents, shall be at the costs and charges of said company, without charges of any kind upon the Territory or future State. And said railroad so constructed by the application of the proceeds of the lands hereby granted, shall be and remain public highways for the use of the Government of the United States, free from any toll or other charge upon the transportation of troops and military property of the United States; and the United States mail shall be transported over said railroad branch, under the direction of the Post Office Department, at such a price as Congress may by law direct. *Provided*, that until such price is fixed by law of Congress, the Postmaster General shall have the power to determine the same.

Sec. 18. In consideration of the grants, privileges and franchises herein conferred on said Minnesota and Pacific Railroad Company, the said company shall and will on or before the first day of March in each year, pay into the Treasury of the Territory or future State, three per centum of the gross earnings of the said railroad, for the year ending on the last day of the preceding December, in lieu of all taxes and assessments whatever. And for the purpose of ascertaining the said earnings, an accurate account shall be kept by said company of all receipts and expenditures on account of the operations of the said railroad, and abstracts thereof shall be furnished by the said company to the Treasurer of the Territory or State, on or before the first day of February in each year, the truth of which shall be verified by the affidavits of the Secretary and Treasurer of said company; and for the purpose of ascertaining the truth of said affidavits and the correctness of said abstracts, full power is vested in the Governor, or any other person appointed, as may be by law prescribed, to examine the books and papers of said company, and to examine under oath the officers, agents and employees of said company and other persons, and if any person so examined by the Governor or other authorized person, shall knowingly and willingly swear falsely concerning the matters aforesaid, every such person is hereby declared to have committed perjury. And for securing to the Territory or State the payment of the aforesaid per centum, it is hereby declared that the State shall have a lien upon the railroads of said company, and upon all other property, estate and effects of said company, whether real, personal or mixed, and the lien here secured shall take and have precedence over all demands, decrees and judgments against said company. The first payment shall be made on the first day of March next after the fifty miles of said railroad shall be completed, and such payment shall be in lieu of all taxes and in full of all claims of the Territory or State for the grant hereby made; and in consideration of such annual payments, the said company shall be forever exempt from all assessments and taxes whatever by the Territory, or State which shall succeed the Territory; or by any county, city, town, village, or other municipal authority in the Territory or State; upon all stock in the said "Minnesota and Pacific Railroad Company," whether belonging to said company or to individuals, and upon all its franchises or estate, real, personal or mixed, held by said company, and said land granted by said act of Congress, hereby authorized to be conveyed to the said Minnesota and Pacific Railroad Company, shall be exempt from all taxation, till sold and conveyed by said company.

Sec. 19. The said Minnesota and Pacific Railroad Company shall have full power and authority to transport persons and property in boats, vessels, barges or other water craft, on any navigable water which any portion of its railroads may run to or connect with, and to receive and collect such tolls and charges therefor as said company shall, from time to time, fix and determine, and for that purpose may purchase, build and own such vessels, boats and barges, and other water craft as it may require.

Sec. 20. The said Minnesota and Pacific Railroad Company shall be capable in law of taking and holding any lands granted by the Government of the United States, or of this Territory, or of the future State, or by other parties, which shall be conveyed to it by this act, or by deed, gift or purchase, or by operation of law, and may mortgage, pledge, seal and convey the same, or otherwise dispose of all their rights, title, interest, claim or demand of, in and to, any such lands so granted to said company, and in any other estate—real, personal or mixed—of which said company may be seized, or which it may acquire subsequently thereto, in such manner and on such terms as the directors may think proper.

Sec. 21. The said company is hereby authorized and empowered in its corporate capacity, to make, execute, issue and deliver its bonds and obligations in any amount which the directors may deem necessary and expedient; *provided*, that the faith of the Territory or future State of Minnesota shall be in no wise pledged for the redemption of said bonds, and that no banking privileges are hereby granted to said company, and the directors of said company are hereby authorized and empowered to prescribe the sum or sums for which each of said bonds shall be issued, the time or times, the place or places, when and where the principal and interest of the same shall be payable, the person or persons, trustee or trustees, or corporation to whom they shall be payable, and whether payable to order or bearer, or how otherwise negotiable, the rate of interest said bonds shall bear, and the manner and form in which the interest coupons annexed to them shall be executed, and to secure the payment of all or any of said bonds, the said company is hereby authorized and empowered in its corporate capacity to make, execute and deliver, one or more mortgages or deeds of trust upon the whole or any part of its railroad or branches constructed, or authorized to be constructed, and of the estate granted by the act, and any or all other of their estate, real, personal or mixed, in possession or expectancy; and said company is also hereby authorized and empowered in and by such mortgage or deed of trust, to confer upon the trustee or mortgagee full and ample powers to enter into and upon and to take possession of, have, use, and employ, or to sell and dispose of the whole or any part of said railroad and branches. and all corporate and other franchises, rights and privileges of the said company; and in case of any such sale, to grant and convey to the party or parties acquiring title under any such sale, and their associates, successors, and assigns all and the same rights, privileges, grants, franchise, immunities and advantages in and by such mortgage or deed of trust enumerated and conveyed, which belonged to, and were enjoyed by, the said company, as fully and absolutely in every respect as the said company, its siockholders, officers and agents, might or could have done if such sale or foreclosure had not taken place. And the directors of said company are hereby authorized and empowered to prescribe by resolution to be by them adopted, all matters relating to the form and terms of any such mortgage or deed of trust and of its execution and delivery, and they are authorized to provide for the periodical payment to such or receiver as they shall appoint, a certain sum to create a sinking fund with which to pay off and discharge at or before maturity, any or all of the bonds by them authorized to be issued, and also provide the manner in which such trustee or receiver shall pay out or dispose of said sinking fund, and to authorize him to designate by lot or any other suitable manner, the bond or bonds to the payment of which said sinking fund or any part thereof shall be applied, [and the said company is hereby fully authorized and empowered by its agents or brokers or otherwise, at any place, to sell, loan, pledge, hypothecate or otherwise dispose of any or all of the aforesaid bonds hereby authorized to be issued, at par, or at any price less than par, and for such sum or sums, and on on such terms as to the said company or its agents or brokers shall appear most for the interest of said company. And any such mortgage or deed of trust and every discharge or satisfaction thereof, may be recorded in the office of the Secretary of the Territory or future State of Minnesota, in a proper book kept for that purpose, and the certificate of such recording endorsed on such mortgage or deed of trust shall have the same effect as if recorded in the several counties through which said road may run, or in which such land may be, and such record in the office of the Secretary shall be sufficient notice to all persons.

SEC. 22. All the property which the said Minnesota Railroad Company is authorized to take, possess, hold, use or enjoy by making payment therefor, as in the act provided, is hereby declared to be taken for public use so soon as the said company shall so take, possess, hold or use the same.

SEC. 23. Every conductor, baggage master, engineer, brakeman or other servant of such corporation employed on a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge which shall indicate his office, initial letter or style of the corporation. No conductor or collector without such badge shall demand or be entitled to receive from any passenger any fare, toll or ticket, or exercise any of the powers of his office and no other of said officers or servants without such badge, shall have any authority to meddle or interfere with any passenger, his baggage or property.

Sec. 24. A bell of at least thirty pounds weight, or a steam whistle, shall be placed on each locomotive engine, and shall be rung or whistled at the distance of at least eighty rods from the place where said road shall cross any other road, and be kept ringing or whistling at intervals until it shall have crossed said road or street, under a penalty of fifty dollars [for every neglect, to be paid by said corporation, one-half to go to the informer, and the other half to the Territory or future State of Minnesota, and to be liable for all damages by reason of such neglect. Said corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each public road, or street, where the same is crossed by the railroad, on such elevation as not to obstruct the travel, and to be easily seen by travelers, and on each side of said board shall be painted in capital letters of at least the size of three inches each, the words "Railroad Crossing—Look out for the Cars;" but this provision shall not apply to streets of cities or villages, unless the corporation be required to put up such boards, by the officers having charge of such streets. Said company shall construct and maintain a good, substantial board or rail fence, four and one-half feet high, aloug said railroad in the line of the lands by this act granted to them, and shall construct and maintain cattle guards wherever the same may be necessary, sufficient to keep cattle, sheep, horses, and hogs from off the track of said railroad, whenever required by the board of county commissioners, of the counties respectively through which said roads shall pass, and shall be liable for all damages sustained by any person by reason of any neglect to keep and maintain such fence or cattle guard in good repair.

Sec. 25. Said company is hereby authorized and shall have full power to locate, construct and operate a railroad, with one or more tracks, from Winona up the valley of the Mississippi river to Saint Paul, and to extend its line of railroad from its terminus at a point between the foot of Big Stone lake and the mouth of the Sioux Wood river, to any point on the Missouri River north of the forty-fifth parallel of north latitude, and to incrérse its capital stock, eqnal to the said cost of said road and extension.

Sec. 26. Said company shall also have power and authority to construct and operate a line of Magnetic Telegraph along any or all of its railroads or branches in this Territory or future State of Minnesota.

Sec. 27. The Minnesota and Pacific Railroad Company shall not at any time consolidate with any railroad company, owned or operated outside the Territory or State of Minnesota, without the authority of the Legislature of said Territory or State. All the railroads in this Territory shall be of uniform gauge or width of tracks, which shall be, and is hereby established at four feet and eight and one-half inches.

Sec. 18. This Act is hereby declared to be a Public Act, and shall be favorably construed to effect the purposes thereby intended; and copies thereof, printed by authority of the Territory or State of Minnesota, shall be received as evidence thereof in all cases.

Sec. 29. This Chapter One of this Act shall take effect and be in force from and after the passage of this Act.

CHAPTER II.

SECTION 1. The Transit Railroad Company is hereby authorized and empowered to survey, locate, construct, complete, and perpetually to have, use and maintain the Transit Railroad with one or more tracks or lines from the city of Winona, on the most direct and feasible route by way of St. Peter to the Big Sioux River, south of forty-fifth parallel of north latitude; and shall have, possess, and enjoy the same rights, privileges, functions, franchises, authority and immunities (with reference to the said route or any railroad to be built thereon) and there is hereby conferred upon the Transit Railroad Company all the power and authority contained in the charter of said Company passed by the Legislative Assembly of the Territory of Minnesota, entitled "an act to incorporate the Transit Railroad Company," approved March 3, 1855, for the purpose of carrying out the objects of this act and of appropriating and applying the lands hereinafter in this act granted or their proceeds, to aid in the construction of railroads by this act authorized to be built; and the whole of the railroad or said road hereby authorized to be constructed, shall be constructed by said Transit Railroad Company within ten years from the third day of March, A. D. 1857. The Transit Railroad Company shall never set up the defence of usury to any contract in any court whatever.

SEC. 2. For the purpose of aiding in the construction of the railroad which by this act the Transit Railroad Company is authorized to construct, all the interest and estate, present and prospective of this Territory and future State, in and to any and all lands granted by the Government of the United States to the Territory of Minnesota for the purpose of aiding in the construction of a railroad from Winona via St. Peter to the Big Sioux River, south of the forty-fifth parallel of north latitude, by virtue of an act of Congress, entitled "an act making a grant of land to the Territory of Minnesota in alternate sections to aid in the construction of certain railroads in said Territory, and granting public lands in alternate sections to the State of Alabama to aid in the construction of certain railroads in said State, approved March 3, 1857, together with all and singular the rights, privileges and immunities conferred or intended to be conferred upon said road by the said act of Congress, are hereby granted to and vested in the said Transit Railroad Company. *Provided*, that the said land shall be exclusively applied to and used by said Transit Railroad Company in the construction of a railroad from Winona via St. Peter to a point on the Big Sioux south of the forty-fifth parallel of north latitude, and shall be disposed only in the manner prescribed in said act of Congress, approved March 3, 1857, and shall be applied to no other purpose whatever.

SEC. 3. The location and designation, and any change or alteration of the route and line of said railroad shall be made by the Transit Railroad Company, and the same shall from time to time, and as fast as practicable, be reported to the Governor of the Territory or future State of Minnesota. The selecting of lands provided for in the act of Congress hereinbefore mentioned, and herein vested in said Transit Railroad Company shall be made by such agent or agents as shall be appointed by the Governor of this Territory or future State of Minnesota, who is hereby required to appoint the same upon the request of said company. Compensation of such agents shall be at the cost and charge of said company, without charge of any kind upon the treasury of this Territory or future State of Minnesota. Said railroad, which shall be constructed by the application of funds derived from the lands herein granted, shall be and remain a public highway for the use of the Government of the United States, free from any toll or other charge upon the transportation of property or troops of the United States; and the United States mail shall be transported over said railroad under the direction of the Post Office Department, as provided in said act of Congress.

SEC. 4. The lands so granted shall be and are exempted from all taxation until the same shall have been sold and conveyed by said company. In consideration of the grant of land and other franchises and privileges hereby confirmed in and conferred on the Transit Railroad Company, the said company shall pay into the treasury of the Territory or State of Minnesota three per cent. of all the gross earnings of said road, the amount of gross earnings to be ascertained by the verified statement of the president of and treasurer of said company, as hereinbefore provided for, and the said three per cent. shall be so paid into the treasury of the Territory or future State of Minnesota within sixty days after any portion of the said road shall be operated, and annually thereafter, and the same when paid shall be in lieu of all taxes whatever.

SEC. 5. The said Transit Railroad Company shall have full power and authority to transport persons and property in boats, vessels and barges or other water craft on any navigable stream or water which their said road may run to or connect with, and to collect and receive reasonable compensation for the same, and for that purpose may purchase or hold and own such vessels, boats or other craft as may be required for the purpose aforesaid.

Sec. 6. The said Transit Railroad Company shall be capable in law of taking and holding any lands granted by the Government of the United States, or of this Territory or future State of Minnesota, to aid in the construction of railroads which shall be conveyed to said company by this act, or by deed in fee simple, or any lessor, or by operation of law. And they may also borrow money, issue bonds or other evidences of debt to secure the same; and may also mortgage or pledge or otherwise dispose of all their right, title, claim or demand of, in or to any lands or interest in lands, granted to said company by this act, and in any other estate, real, personol or mixed, of which they may be seized at the time of execution of such mortgage, or which they may acquire subject thereto, in such manner and on such terms as the directors may think proper.

Sec. 7. Whenever any twenty continuous miles of said railroad shall be completed, it shall be the duty of the Governor of this Territory or future State to certify that fact to the Secretary of the Interior, and so from time to time as often as twenty more continuous miles of said road shall be completed.

Sec. 8. The Root River Valley and Southern Minnesota Railroad Company shall have at all times the right to send passengers and freight over the Transit Railroad at as low rates and charges per mile as the said Transit Railroad Company may charge over any portion of their said road.

Sec. 9. Said Transit Railroad Company shall have full power and authority to extend its line of railroad from its terminus on the Big Sioux River to any point on the Missouri River south of the forty-fifth parallel of north latitude.

Sec. 10. This Chapter two of this act shall take effect and be in force from and after the passage of this act.

CHAPTER III.

SECTION 1. The Root River Valley and Southern Minnesota Railroad Company are hereby authorized and empowered to survey, locate, construct and complete, and perpetually to have, use, maintain and operate a railroad with one or more tracks or lines, from La Crescent, via Target Lake, up the valley of Root river, to a point of junction at Rochester (with a railroad from Winona via St. Peter to a point on the Big Sioux river south of the forty-fifth parallel of north latitude), east of range seventeen, in the Territory of Minnesota; *Provided*, the last mentioned railroad is operated and constructed by way of Rochester, in accordance with the act of incorporation of said Root River Valley and Southern Minnesota Railroad Company, approved March 2, 1855, and all subsequent amendments thereto.

SEC. 2. The said Root River Valley and Southern Minnesota Railroad Company are hereby authorized and empowered to survey, locate, construct, complete, and perpetually to have, use, maintain and operate a railroad with one or more tracks or lines, from St. Paul and St. Anthony, via Minneapolis, to a point of junction at Shakopee City in the county of Scott, thence via Belle Plaine, Clarksville, Le Seur, Traverse, de Sioux, St. Peter, Kasoto, Mankato and South Bend, to the southern boundary of the Territory of Minnesota, in the direction of the mouth of the Big Sioux river, and for these purposes shall have, possess, exercise and enjoy the same rights, privileges and immunities with reference to the said routes or any route of railroad in this act provided for, or any railroad to be built thereon, as it now possesses and enjoys with reference to the roads described in the act of incorporation of said company, and the amendment thereto.

Sec. 3. All the lands, interests, rights, powers and privileges granted to and conferred upon the Territory of Minnesota, and by virtue of an act of Congress, approved March 3d, 1857, entitled "An Act making a grant of land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands in alternate sections to the State of Alabama, to aid in the construction of certain railroads in said State," applicable to the said roads or lines above mentioned. are hereby disposed of and conferred to and upon said Root River Valley and Southern Minnesota Railroad Company, subject to the provisions hereinafter set forth and the provisions of the act of Congress aforesaid.

Sec. 4. The whole of said railroads herein authorized and required to be constructed shall be completd by said Root River Valley and Southern Minnesota Railroad Company within two years from the 3d of March, 1857, and that portion of the road aforesaid from St. Paul to St. Peter, and from St. Anthony via Minneapolis to the point of junction at Shakopee City, shall be completed within four years from the first day of January, 1858; *Provided*, that that portion of road from St. Anthony via Minneapolis shall be commenced and built as soon as that from St. Paul; and the said company shall never set up the defence of usury to any contract whatever.

Sec. 5. The said Root River Valley and Southern Minnesota Railroad Company are hereby authorized and required to construct a railroad with one or more tracks, from a point of junction with the first mentioned road at or near Hokah to the village of Browsville, in the County of Houston, which branch road shall be completed within three years from the approval of this act; *Provided*, that nothing herein contained shall conflict with the said act of Congress with the privilege of extending the said branch to the south line of the Territory of Minnesota; and the said Root River Valley and Southern Minnesota Railroad Company is hereby authorized and empowered to survey, locate, construct and complete and perpetually to have, use, maintain and operate a railroad with one or more tracks from the western terminus of the railroad herein authorized to be constructed by the said company (from St. Paul to the southern boundary of the Territory of Minnesota, in the direction of the mouth of the Big Sioux river, in a westerly direction to the Missouri river), and for these purposes the said company shall have, possess, exercise and enjoy the same rights, privileges, franchises, authority and immunities with reference to the said routes so extended, or any railroads to be constructed thereon, as are granted to said company by their act of incorporation.

Sec. 6. The Minneapolis and Cedar Valley Railroad Company is hereby authorized to survey, locate, construct, complete, and perpetually to have, use, maintain, operate, with one or more tracks, a railroad from Minneapolis in the direction of Farribault, to a point of junction (with the aforesaid railroad from St. Paul to the Southern boundary of the Territory of Minnesota), in the direction of the mouth of the Big Sioux river; said point of junction to be in the county of Dakota, from one to six miles from Mendota, in a southerly direction. thence from said junction or crossing of the said railroad, from St. Paul via Farribault to the south line of the Territory of Minnesota, west of range (16) sixteen, and for that purpose shall have, possess and enjoy and exercise the same rights, privileges, franchises and immunities with reference to the said route or any railroad to be constructed thereon, as it possesses or enjoys in reference to the road described in the act of incorporation of said company and all the lands, rights, powers, privileges and interests granted to and conferred upon the Territory of Minnesota, in and by virtue of the said act of Congress approved March 3, 1857, entitled "An Act making a grant of lands to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands to the State of Alabama to aid in the construction of a certain railroad in said State," applicable to the said road or route, shall be and are hereby disposed of, granted and conferred to and upon the said Minneapolis and Cedar Valley Railroad Company, subject to the terms and conditions and provisions hereinafter set forth, and of the said act of Congress; and the whole of said railroad hereby authorized to be constructed by the said Minneapolis and Cedar Valley Railroad Company shall be completed within ten years from the 3d day of March, A. D. 1857, and the said company shall never set up the defence of usury in any contract whatever.

SEC. 7. For the purpose of aiding in the construction of railroads which by this act the several railroad companies mentioned in this act are authorized to construct, all the interest and estate, present and prospective of the said Territory and future State in or to any and all the lands granted by the Government of the United States to the Territory of Minnesota for the purpose of aiding in the construction of the roads herein set forth by virtue of the act of Congress entitled "An Act making a grant of lands to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands in alternate sections to the State of Alabama, to aid in the construction of a certain railroad in said State," approved March 3, A. D. 1857, together with all and singular the rights, privileges and immunities conferred or intended to be conferred upon said Territory by the said act of Congress, are hereby granted to and vested in said railroad companies respectively: *Provided*, That the said lands shall be exclusively applied to and used by said railroad companies respectively in the construction of the aforesaid railroads, and shall be disposed only in the manner prescribed in said act of Congress.

Sec. 8. The location and designation, and any change or alteration of the route or line of said railroad shall be made by the aforesaid railroad companies respectively, and the same shall be from time to time and as fast as practicable reported to the Governor of the Territory or future State of Minnesota. The selecting of lands provided for in the act of Congress hereinbefore mentioned and herein vested in said companies, shall be made by such agent or agents as shall be appointed by the Governor of this Territory or future State of Minnesota, who is hereby required to appoint the same. Compensation of such agents shall be at the cost and charge of said companies, without charge of any kind upon the treasury of the Territory or future State of Minnesota. Said railroads shall be constructed by the application of funds derived from the lands herein granted, shall be and remain a public highway for the use of the Government of the United States, free from all toll or other charge upon the transportation of property or troops of the United States, and the United States mail shall be transported over said railroad under the direction of the Postoffice Department, as provided in said act of Congress.

SEC. 9. The said lands so granted shall be, and are, exempt from taxation until the same shall have been sold and conveyed by said companies. But so soon as the said companies shall have respectively constructed, equipped and put in operation, fifty miles of railroad for the transportation of freight and passengers, the said companies shall severally pay into the Treasury of the Territory or State of Minnesota, in lieu of all taxes whatsoever, upon the property of said company respectively, the sum of three per cent. per annum on the gross earnings of each of the said roads, said gross earnings to be ascertained by a statement under the oaths of the President and Treasurer of each of the said roads, which statement shall be filed on or before the first day of January in each year, in the office of the Governor of the Territory or future State of Minnesota, said payments to be made annually, within sixty days after the filing of the statements aforesaid, and the Governor shall have the right to appoint a commissioner to examine the books and accounts of said company at any time.

SEC. 10. The said railroad company shall have full power and authority to transport persons and property in boats, vessels, barques and other water crafts on any navigable river, stream or water, which their said road may run to or connect with, and to collect any reasonable compensation for the same; and for that purpose may purchase or hold and own such vessels, boats and other craft as may be required for the purpose aforesaid; *Provided, however*, the provisions of this section shall not interfere with, or apply to, the ferry rights, privileges and franchises heretofore granted by the Legislature of this Territory.

Sec. 11. The said railroad companies shall be capable in law of taking and holding any lands granted by the Government of the United States, or this Territory or future State of Minnesota, to aid in the construction of railroads, which shall be conveyed to these companies by the act or by deed in fee simple or any lessor, estate, or by operation of law, and they may also borrow money, issue bonds or other evidences of debt, to secure the same, and may also mortgage or pledge, or otherwise dispose of, all their right, title, claim, or demand of, in or to any lands granted to said companies, or either of them, by this Act, and in any other estate, real personal or mixed, of which they may be seized at the time of the execution of such mortgage, or which they may acquire subsequent thereto, in such manner and on such terms as the directors may think proper.

Sec. 12. When any continuous twenty miles of either of said railroads shall be completed, it shall be the duty of the Governor of this Territory or future State to certify that fact to the Secretary of the Interior, and so from time to time, as often as twenty more continuous miles of said railroads are completed, and said lands shall become the property of the respective companies herein mentioned, in accordance with the provisions of the act of Congress making the grant of lands to the Territory of Minnesota, approved, March 3d, 1857, heretofore referred to in this act.

Sec. 13. The Minneapolis and Cedar Valley Railroad Company, shall at all times have the right to use the road, track, switches, depots and grounds of the said Root River Valley and Southern Minnesota Railroad Company, from the junction of the aforesaid railroad to the city of St. Paul, with its engines, tenders, cars and all other carriages necessary or convenient for the transportation of freight and passengers, and by its servants and officers to fully and freely enter upon, occupy and use the same in the transaction of its business to and from the said city of St. Paul, on such terms and conditions as shall be agreed upon by the said companies; and in case the said companies shall not be able to agree in reference to said terms, either party may apply to the Governor of the Territory or State, on ten days' notice, for the appointment of three disinterested persons, one of whom shall be an engineer, to decide upon the terms and conditions of such use, and the compensation to be paid for the use of said roads, tracks and depots as herein provided, and the award of the persons so appointed as aforesaid, shall be final and conclusive. And the said Minneapolis and Cedar Valley Railroad Company are hereby authorized at any time to build and construct, from the said junction to the city of St. Paul, on the line or route, and on the lands of the said Root River Valley and Southern Minnesota Railroad Company, or any portion of the same, one or more separate tracks, with the necessary side-tracks, turnouts, switches and other conveniences, and also to locate, build and construct from any other point on their said road, a like road to and from St. Paul, and from any point on said road, a like road to Hastings, with all necessary side-tracks, turnouts, switches, depots and other conveniences for the transportation of freight and passengers, and are hereby authorized to take, acquire, and hold at St. Paul and elsewhere, all necessary depot grounds and other real estate, in the same manner as provided in their act of incorporation. And it is also hereby further provided, that all and singular the rights and privileges hereinbefore granted to the Minneapolis and Cedar Valley Railroad Company into and over the track, depots and lands of the Root River Valley and Southern Minnesota Railroad Company, and also to construct another track on the lands of said company, be, and the same are hereby, granted and conferred to and upon the said Root River Valley and Southern Minnesota Railroad Company, over the lands of the Minneapolis and Cedar Valley Railroad Company, in and to and over the line, route, and lands of the Minneapolis and Cedar Valley Railroad Company, from said junction, or any other point on their said line, to St. Anthony, upon the same terms and conditions in all respects as hereby granted and provided for said Minneapolis and Cedar Valley Railroad Company in, to and over the line, track and lands of the said Root River Valley and Southern Minnesota Railroad Company.

Sec. 14. If it shall be found after the selections of lands is made, that there is a greater quantity of land in proportion to distance included in the grant to the Root River Valley and Southern Minnesota Railroad, on the line of road to be constructed by said company, from St. Paul and from St. Anthony, by way of Minneapolis, to the southern boundary of the Territory as herein described, than on the line of road to be constructed by the Minneapolis and Cedar Valley Railroad Company in proportion to the number of miles of route to be constructed by said company, the Governor of the Territory or State, at the request of the company upon whose line the deficiency may exist, shall appoint an agent to select and set apart from the lands on the line of roads having such excess of quantity, a sufficient amount of lands on such line of average quantity, location and value to equalize the quantity of lands to each company, it being intended that each company are to equally share the lands granted on both lines in proportion to distance of roads to be constructed by each, and the land so selected and set apart shall vest in and become the property of said company so entitled to receive them on the report of the commissioners as aforesaid, such selection and report being confirmed by the Governor; *Provided*, that nothing herein contained shall be taken or construed to authorize the appropriation of any of the lands granted to the road from St. Paul and from St. Anthony via Minneapolis to the Iowa State line, the direction of the mouth of the Big Sioux River, or the branch thereof via Farribault to the Iowa State Line, to the construction of the road to La Crescent to the junction with the road from Winona via St. Peter to the Big Sioux River south of the forty-fifth parallel of north latitude; *And provided further*, that nothing herein contained shall conflict with said act of Congress.

Sec. 15. The Root River Valley and Southern Minnesota Railroad Company are hereby authorized and required to elect six additional directors (five of whom shall be along the line of the road mentioned in this section) to the number already authorized by their act of incorporation, and the persons so selected shall remain in office until the next annual election; and at said annual election, and at all future elections by the stockholders of said company, one-third of said Board of Directors shall be elected from citizens residing upon the roads leading from St. Paul and from St. Anthony via Minneapolis to the Iowa line in the direction of the mouth of the Big Sioux River.

Sec. 16. The Root River Valley and Southern Minnesota Railroad Company and the Minneapolis and Cedar Valley Railroad Company shall, within forty days after the passage of this act, cause their books to be opened and kept open for ten days, or until one million of dollars to the capital stock in each of said companies shall have been subscribed, subject to the provisions of their charter and by-laws respectively, said books to be opened at St. Paul and Minneapolis, Shakopee and St. Peter, notice of which shall be published in some newspaper printed at each of the above-named places, at least two weeks before said books are so to be opened. The said Minneapolis and Cedar Valley Railroad Company and the Root River Valley and Southern Minnesota Railroad Company shall have full power and authority to become united and consolidated in a single corporation with any other railroad company in this Territory, on such terms and conditions as the Board of Directors of said respective companies may agree to and prescribe, and such consolidation may be authorized by said Board of Directors at any regular meeting of said Board called for that purpose. When articles of consolidation shall be duly entered into and agreed upon by the directors of the respective companies interested, they shall be submitted to the stockholders of the several companies for their approval, and if the stockholders holding a majority of the capital stock in each of the respective companies so interested shall approve the same, then they shall be subscribed by the president and secretary of each of said companies, and a duplicate thereof shall be filed in the office of the Secretary of the said Territory or State, and all the rights, interests, powers, privileges, franchises and property conferred upon such companies respectively by their act of incorporation or by this act, or held or enjoyed by said companies under their respective charters, shall vest in and be held, used, exercised and enjoyed by the said consolidated company, under the corporate name chosen and designated in the said articles of agreement and consolidation, as fully, amply and effectually, to all intents and purposes whatsoever, as if the same had been directly granted to or acquired by said consolidated company. The immediate government and direction of said consolidated company shall be vested in such number of directors as may be fixed and agreed upon in the articles of consolidation.

Sec. 17. The said companies shall respectively, within thirty days after the passage of this act, accept the same, and the acceptance shall be by a resolution adopted by the Board of Directors, a copy of which, duly certified by the secretary of the company, shall be deposited in the office of the Secretary of said Territory within the time aforesaid.

Sec. 18. This act shall take effect and be in force from and after its passage.

Sec. 19. All the different companies mentioned in this act shall construct and maintain good and substantial board and rail fences four and one-half feet high on both sides of their respective roads, and shall construct and maintain cattle-guards wherever the same may be necessary, sufficient to keep cattle, sheep, horses and hogs from off the track of said road, and shall be liable for all damages sustained by any person by reason of any neglect to keep and maintain such fence and cattle-guard in good repair. Said company shall make and keep in repair such farm crossings as shall be necessary to accommodate the several land owners through which the said roads may pass.

SEC. 20. The lands authorized to be taken by the said several companies for right of way and depot grounds, shall be deemed to be taken for public use.

J. W. FURBER,
Speaker of the House of Representatives.
JOHN B. BRISBIN,
President of Council.

Approved May twenty-second, one thousand eight hundred and fifty-seven.

S. MEDARY.

SECRETARY'S OFFICE,
ST. PAUL, MINNESOTA, July 22, 1857.

I hereby certify the foregoing to be a correct copy of the original bill now on file in this office.

CHAS. L. CHASE,
Secretary of Minnesota Territory.

A BILL to change the name of the Root River Valley and Southern Minnesota Railroad Company.

Be it Resolved by the Legislative Assembly of the Territory of Minnesota.

SECTION 1. The corporate name of the Root River Valley and Southern Minnesota Railroad Company shall hereafter be the Southern Minnesota Railroad Company, and by that name shall be known and called in all its corporate acts and dealings.

SEC. 2. That section 2 of an act to incorporate the Root River Valley and Southern Minnesota Railroad Company, approved March 2, 1855, be amended by striking out the words "Eagle Bluffs in Winona county," and insert in lieu thereof the words "La Crescent in Houston county."

Sec. 3. This act shall take effect and be in force from and after its passage.

J. W. FURBER,
Speaker of the House of Representatives.
JOHN B. BRISBIN,
President of Council.

Approved May twenty-third, one thousand eight hundred and fifty-seven.

S. MEDARY.

Secretary's Office,
St. Paul, Minnesota, July 22, 1857.

I hereby certify the foregoing to be a true copy of the original bill on file in this office.

CHAS. L. CHASE,
Secretary of Minnesota Territory.

MS. Copy of Amendments to Minnesota Constitution.

[Section 10 of Article IX., Minnesota State Constitution.]

"The credit of the State shall never be given or loaned in aid of any individual association or corporation."

[Amendments to said Section 10, adopted April 15th, 1858.]

Section 10. The credit of this State shall never be given or loaned in aid of any individual association or corporation, except that for the purpose of expediting the construction of the lines of railroads, in aid of which the Congress of the United States has granted lands to the Territory of Minnesota, the Governor shall cause to be issued and delivered to each of the companies in which said grants are vested by the Legislative Assembly of Minnesota, the special bonds of the State bearing an interest of seven per cent. per annum, payable semi annually, in the city of New York, as a loan of public credit, to an amount not exceeding twelve hundred and fifty thousand dollars, or an aggregate amount to all of said companies not exceeding five millions of dollars, in manner following, to wit: Whenever either of the said companies shall produce to the Governor satisfactory evidence, verified by the affidavits of the Chief Engineer, Treasurer, and two directors of said company, that any ten miles of the road of said company has been actually constructed and completed, ready for placing the superstructure thereon, the Governor shall cause to be issued and delivered to such company, bonds to the amount of one hundred thousand dollars; and whenever thereafter, and as often as either of said companies shall produce to the Governor, like evidence of a further construction of ten miles of its road as aforesaid, then the Governor shall cause to be isued to such company further like bonds to the amount of one hundred thousand dollars for each and every ten miles of road thus constructed; and whenever such company shall furnish like evidence that any ten miles of its road is actually completed and cars running thereon, the Governor shall cause to be issued to such company, like bonds to the amount of one hundred thousand dollars, and whenever thereafter, and as often as either of said companies shall produce to the Governor like evidence that any further ten miles of said road is in operation as aforesaid, the Governor shall cause to be issued to such company further like bonds to the amount of one hundred thousand dollars, until the full amount of the bonds hereby authorized shall be issued; *provided,* that two-fifths, and no more, of all the bonds issued to the Southern Minnesota Railroad Company, shall be expended in the construction and equipment of the line of road from La Crescent to the point of junction with the Transit Road as provided by law; *and further provided*, that the Minneapolis and Cedar Valley Railroad Company shall commence the construction of their road at Farribault and Minneapolis, and shall grade an equal number of miles from each of said places. That said bonds thus issued shall be denominated "Minnesota State Railroad Bonds," and the faith and credit of this State are hereby pledged for the payment of the interest, and the redemption of the principal thereof. They shall be signed by the Governor, countersigned and registered by the Treasurer, sealed with the seal of the State, of denominations not exceeding one thousand dollars, payable to the order of the company to whom issued, transferable by the endorsement of the president of the said company, and redeemable at any time after ten and before the expiration of twenty-five years from the date thereof. Within thirty days after the Governor shall proclaim that the people have voted for a loan of State credit to railroads, any of said companies proposing to avail themselves of the loan herein provided for, and to accept the conditions of the same, shall notify the Governor thereof, within sixty days, commence the construction of their roads, and shall, within two years thereafter, construct ready for the superstructure, at least fifty (50) miles of their road. Each company shall make provisions for the punctual payment and redemption of all bonds issued and delivered as aforesaid to said company, and for a punctual payment of the interest which shall accrue thereon, in such manner as to exonerate the treasury of the State from any advances of money for that purpose; and as security therefor the Governor shall demand and receive from each of said companies before any of said bonds are issued, an instrument pledging the net profits of its road for the payment of said interest and a conveyance to State of the first two hundred and forty sections of land free from prior incumbrances, which such company is or may be authorized to sell in trust for the better security of the treasury of the State from loss on said bonds, which said deed of trust shall authorize the Governor and Secretary of State to make conveyances of title to all or any of such lands, to purchasers agreeing with the respective railroad companies therefor; *Provided*, that before releasing the interest of the State to such lands, such sale shall be approved by the Governor, but the proceeds of all such sales shall be applied to the payment of interest accruing upon the bonds in case of default of the payment of the same, and as a sinking fund to meet any future default in the payment of interest and the principal thereof when due; and as further security, an amount of first mortgage bonds on the roads, lands, and franchises of the respective companies, corresponding to the State bonds issued, shall be transferred to the treasurer of the State at the time of the issue of State bonds; and in case of either of said companies shall make default in payment of either the interest or principal of the bonds issued to said companies by the Governor, no more State bonds shall thereafter be issued to said company, and the Governor shall proceed in such manner as may be prescribed by law, to sell the bonds of the defaulting company or companies, or the lands held in trust as above, or may require a foreclosure of the mortgage executed to secure the same; *Provided*, that if any company so in default before the day of sale shall pay all interest and principal then due, and all expenses incurred by the State, no sale shall take place, and the right of said company shall not be impaired to a further loan of State credit ; *Provided*, if any of said companies shall at any time offer to pay the principal, together with the interest, that may then be due upon any of the Minnesota State Railroad Bonds which may have been issued under the provisions of this section, then the treasurer of the State shall receive the same ; and the liability of the said company or companies in respect to said bonds shall cease upon such payment into the treasury of principal, together with the interest as aforesaid; *Provided further*, that in consideration of the loan of the State credit herein provided, that the company or companies which may accept the bonds of the State in the manner herein specified, shall as a condition thereof, each complete not less than fifty miles of its road on or before the expiration of the year 1861, and not less than one hundred miles before the year 1864, and complete four-fifths of the entire length of its road before the year 1866, and any failure on the part of such company to complete the number of miles of its road or roads, in the manner and within the several times herein prescribed, shall forfeit to the State all the right, title, and interest of any kind whatsoever in and to any lands, together with the franchises connected with the same not pertaining or applicable to the portion of the road by them constructed, and a fee simple to which has not accrued to either of said companies, by reason of such construction which was granted to the company or companies, thus failing to comply with the provisions hereof by the act of the Legislature of the Territory of Minnesota, vest said land in said companies respectively.

MS. COPY MINNESOTA RAILROAD STATE R OND.

7 per cent.	United States of America,	7 per cent.
1,000		1,000
Minn. State.	State of Minnesota.	Minn. State

The State of Minnesota acknowledge to owe and promises to pay to the order of the Southern Minnesota Railroad Company, at the Metropolitan Bank, in the city of New York, or at such other place in said city as may be hereafter designated by law, the sum of one thousand dollars, on the first day of December, A. D. one thousand eight hundred and eighty-three, with interest at the rate of seven centum per annum, to be paid semi-annually, at the place or places aforesaid, on the first day of June and December of each year, on the presentation and surrender of the proper coupon hereto attached.

This Bond is issued under authority of an amendment to the Constitution of the State of Minnesota, adopted by the people on the 15th day of April, 1858, and proclaimed by the Governor of the State on the 5th day of May, 1858.

Witness, The great seal of the State of Minnesota, and the signatures of the Governor and [SEAL.] Treasurer of said State, at St. Paul, Minnesota, this first day of December, A.D. 1858, and of the State the first.

Countersigned and Registered.

HENRY A. SIBLLEY,
Governor.
GEO. M. ARMSTRONG,
Treasurer.

Pay the above Bond and all accruing interest as maturing unto bearer.

The Southern Minnesota Railroad Company hereby waives the presentment, demand, and notice of this bond, and the interest coupons thereto attached.

DANIEL WALLS, Jr.,
President of the Southern Minnesota Railroad Co.

CLEVELAND, TUSCARAWAS VALLEY, & WHEELING RAILWAY COMPANY,

CLEVELAND, O., Jan. 29, 1879.

Hon. B. F. Ayer, Chicago, Ill.:

DEAR SIR.—I have yours of the 28th, and take pleasure in furnishing you a copy of one of the State Bonds issued to the Southern Minnesota Railroad. If the description is not full enough, I will send you a bond, that you can copy and return at your leisure.

Very truly yours,
S. CHAMBERLAIN.

MS. COPY OF SOUTHERN MINNESOTA RAILROAD COMPANY MORTGAGE.

This Indenture, made and concluded at St. Paul, in the State of Minnesota, the first day of October, one thousand eight hundred and fifty-eight, by and between the Southern Minnesota Railroad Company party of the first part, and the State of Minnesota, party of the second part, witnesseth, that whereas, by an amendment of the Constitution of the State of Minnesota, adopted by the people thereof on the fifteenth day of April, A. D. 1858, a loan of State credit was provided to be made by the said State of Minnesota to certain Railroad Companies, in manner following, to-wit: that section 10 of article 9 of the Constitution shall be as follows:

SECTION 10. The credit of the State shall never be given or loaned in aid of any individual association or corporation except that for the purpose of expediting the construction of the lines of railroad in aid of which the Congress of the United States has granted lands to the Territory of Minnesota, the Governor shall cause to be issued and delivered to each of the companies in which said grants are vested by the Legislative Assembly of Minnesota, the special bonds of the State, bearing an interest of seven per cent. per annum, payable semi-annually in the city of New York, as a loan of public credit, to an amount not exceeding twelve hundred and fifty thousand dollars, or an aggregate amount to all of said companies not exceeding five million of dollars.

And whereas it is further provided in the same section of the same article, so adopted by the people of the State of Minnesota, as aforesaid, that the Governor of said State shall only cause the bonds to be issued after the compliance by the said Railroad Companies with certain conditions precedent, among which are enumerated the following, to-wit:

The Governor shall demand and receive from each of said companies, before any of said bonds are issued, an instrument pledging the net profits of the roads for the payment of said interest, and a conveyance to the State of the first two hundred and forty sections of land, free from prior incumbrances, which such company is or may be authorized to sell in trust for the better security of the treasury of the State from loss on said bonds, which said deed of trust shall authorize the Governor and Secretary of the State to make conveyances of title to all or any of such lands to purchasers agreeing with the respective Railroad Companies therefor. Provided, that before releasing the interest of the State to such lands, such sales shall be approved by the Governor, but the proceeds of such sales shall be applied to the payment of interest accruing upon the bonds in case of default in the payment of the same, and as a sinking fund to meet any future default in the payment of interest and the principal thereof when due.

Now, therefore, the said party of the first part, for and in consideration of the premises, and of the sum of one dollar to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, sold, conveyed, and confirmed, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, in trust for the uses and purposes hereinafter specified, the first two hundred and forty sections of the land granted to the aforesaid Territory of Minnesota by an Act of Congress, entitled, "An Act making a grant of land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands, in alternate sections, to the State of Alabama, to aid in the construction of a certain railroad in said State," approved March the third, one thousand eight hundred and fifty-seven, and by the Act of the Legislative Assembly of the Territory of Minnesota, entitled "An Act to Execute the Trust Created by an Act of Congress entitled 'An Act Making a Grant of Land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands, in alternate sections, to the State of Alabama, to aid in the construction of a certain railroad in said State, and granting certain lands to Railroad Companies' " therein named, approved May the twenty-second, one thousand eight hundred and fifty-seven, granted to and vested in the said party of the first part, to have and to hold the said two hundred and forty sections of land for the sole use, benefit, and behoof of the said party of the second part forever, in trust for the following uses and purposes, to-wit:

First. In case of default in the payment of the interest or the principal, when due, of the State Bonds to be issued to the said party of the first part, in accordance with the provisions of section 10 of article 9 of the Constitution of the State of Minnesota, as hereinbefore set forth, then and in such case the party of the second part is hereby authorized and empowered, by their authorized agent or agents, to sell and convey, by good and sufficient deed any or all portions of the two hundred and forty sections of land hereby conveyed, first giving notice of the time and places of such sale by advertising the same in two or more newspapers published in the City of New York and in the State of Minnesota, sixty days previous to the day of such sale, the proceeds of such sale or sales to be applied to the payment of the accruing interest or principal due on the said State bonds so to be issued as aforesaid.

Provided, that if said party of the first part to these presents shall, before the day of sale, pay all interest and principal then due, and all expenses incurred by the State of Minnesota, the party of the second part, no sale shall take place, and the rights of said party of the first part shall not be impaired by reason of such default.

In case of the sale of any or all of the two hundred and forty sections of land, as hereinbefore provided by the said party of the second part, then, in such case, the trust hereby created shall cease and determine, and be null and void, and all the interest, claim, title and ownership of the said party of the first part to any and all of the two hundred and forty sections of land, and every part or portion thereof, shall be, and is hereby, transferred, conveyed, bargained and sold to the said party of the second part, and to their assigns, to be by them held in fee simple for their use, benefit and behoof forever, free from any and all interest, claim, demand or ownership thereafter of the said party of the first part, in law or in equity, and the said party of the first part doth hereby covenant and agree, first, that the said two hundred and forty sections of land hereby conveyed shall be of average quality and value with those of the entire lands secured to and vested in the said party of the first part by an act of the Legislative Assembly of Minnesota, approved May twenty-second, one thousand eight hundred and fifty-seven, hereinbefore referred to.

Second. That the said party of the first part, so soon as the two hundred and forty sections of land which said party of the first part now is, or may be, authorized to sell, or any part thereof, shall be set apart and designated by legal subdivisions by the Secretary of the Interior, or other legal authority of the United States, shall, upon the demand of the Governor of the said State of Minnesota, sign, seal and deliver to the said Governor, in trust, a good and sufficient conveyance of the said two hundred and forty sections of land, or any part thereof; which said deed of trust shall authorize the Governor and Secretary of State to make conveyance of title to all or any of such lands to purchasers agreeing with the respective Railroad Companies therefor, provided, that before releasing the interest of the State to such lands, such sale shall be approved by the Governor, but the proceeds of all such sales shall be applied to the payment of interest accruing upon the bonds in case of default of the payment of the same, and as a sinking fund to meet any future default in the payment of interest and the principal thereof, when due.

Third. The said party of the first part hereby expressly reserves the right to contract with any person or persons, company or corporation, for the sale of all or of any part of the said two hundred and forty sections of land, upon such terms and conditions as said party of the first part may deem proper, subject to the approval of the Governor of said State of Minnesota, the party of the second part, and the proceeds of such lands shall be applied to the payment of interest accruing upon the said State bonds in case of default of the payment of the same, and as a sinking fund to meet any future default in the payment of interest and the principal thereof when due.

Fourth. That in case of the prompt payment by said party of the first part of the principal and interest of the State bonds to be issued by the said party of the second part to said party of the first part, and so soon as the same shall be fully paid and canceled, then, in that case, this instrument shall be and become wholly null and void, and the same shall terminate, be annulled and canceled, without any act or deed to be done or performed by the party of the first part or the party of the second part, and the said two hundred and forty sections of land, or such portion thereof remaining unsold, and all right, title, claim, interest and demand thereto, in law and in equity, shall revert to and be reinvested in said party of the first part as fully and as perfectly as if this instrument had never been executed. Provided, however, and it is hereby expressly stipulated by these presents, that nothing herein contained shall be construed to interfere with, annul, or invalidate any sale or sales of any portion of the said two hundred and forty sections of land, made, or which may have been made, in accordance with the terms of this indenture, prior to the said payment of principal and interest of the State bonds as aforesaid.

In witness whereof, the party of the first part hath hereunto, and to one other original indenture of the same tenor in all respects as this, affixed the Corporate Seal of said party of the first part, and have caused the same to be signed by its President, and attested by its Secretary the day and year first above written.

Southern Minnesota
Railroad Company.
Corporate Seal.

DAVID WALLS, Jr.,
President.

A. H. PRATT,
Secretary.

Sealed and delivered in
the presence of
M. L. Webber,
R. E. Kittridge.

State of Minnesota, }
County of Ramsay. } ss.:

On the fifteenth day of October, in the year of our Lord one thousand eight hundred and fifty-eight, before me appeared David Walls, Junior, and Albert H. Pratt, to me known, and being duly sworn before me, said that the said David Walls, Junior, was the President, and the said Albert H. Pratt was the Secretary of the Corporation known as the Southern Minnesota Railroad Company ; that they know the Corporate Seal of the said corporation ; that the seal affixed to the foregoing instrument in writing is the Corporate Seal of the said Corporation, and was so affixed by authority of the said Corporation, and that the said President signed, and that the said Secretary attested the said instrument in each other's presence, and by the authority of the said Corporation, all which is hereby certified.

Witness my hand and Notarial Seal hereunto affixed.

Notarial Seal.

WM. F. WHEELER,
Notary Public,
Minnesota.

PART X.

12 Statutes of South Carolina, P. 543, Passed Dec. 20, 1856.

AN ACT to aid in the construction of the Charleston and Savannah Railroad.

I. *Be it enacted* by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, That whenever the Charleston and Savannah Railroad Company shall have procured *bona fide* subscriptions for the capital stock in said company, to an umount sufficient to grade, bridge and prepare for the iron rails, fifty-one (miles of the said road,) and it shall be shown by said company to the Governor of the State that said subscriptions are good and solvent, and whenever said company shall have graded, bridged, and shall have ready to put down the necessary timbers for the reception of rails, and fully prepared a section of twenty miles of said road, in a good and substantial manner, with good materials for putting on the iron rails and equipments, and the Governor shall be notified of these facts, and that said section, or any part thereof, if not subject to any lien whatsoever, other than that created in favor of the State by this act, by the written affidavits of the President and Chief Engineer of said company, then the Governor shall cause to be endorsed by the Comptroller-General upon the bonds of the said company, to an amount not exceeding five thousand dollars per mile of said section, the guarantee of the State of South Carolina, pledging therefor the faith and funds of the State, which bonds shall be payable at such place in the United States as the President of the company may designate, bearing an interest of six per centum per annum, payable semi-annually, and not having more than twenty years to mature.

II. That the bonds endorsed as aforesaid shall not be used by said company for any other purpose than for procuring the iron rails, chairs, spikes and equipments for said section of said road, and for putting down said iron rails; and the Governor shall not cause the same to be endorsed unless upon the affidavit of said President, and a resolution of the majority of the Board of Director for the time being that said bonds shall not be used for any other purpose than for procuring the said iron rails, chairs, spikes and equipments for said section, and for putting down said iron rails.

III. That so soon as any such bonds shall have been endorsed as aforesaid, for the first section of the road as aforesaid, they shall constitute a lien upon said section so prepared as aforesaid, including the road-bed, right of way, grading, bridges and masonry, upon all the stock subscribed for in said company, and upon said iron rails, chairs, spikes and equipments, when purchased and delivered; and the State of South Carolina, upon the endorsing of said bonds, and by virtue of the same, shall be invested with said lien or mortgage without a deed from the company for the payment by said company of said bonds, with the interest thereon, as the same becomes due.

IV. That when the said company shall have prepared, as aforesaid, a second section, or any additional number of sections of twenty miles each, of said road, connecting with the section already completed, for the iron rails, chairs, spikes and equipments, as provided in the first section of this act, and the Governor shall be notified of the facts, as before provided, he shall, in like manner, cause to be endorsed for said company like bonds of the said company, to an amount not exceeding five thousand dollars per mile, for each and every section of twenty miles of said road so prepared as aforesaid, but upon the terms and conditions hereinbefore provided; and upon the endorsing of the said bonds, the State of South Carolina shall be invested with a like mortgage or lien, without a deed from said company upon said stock, and upon said first and additional section or sections of said road so prepared, upon the rails and equipments put, or to be put upon the same, for the payment of said bonds, and the accruing interest thereon; *Provided*, that if the last section of said road shall be less than twenty miles, bonds of the said company shall be endorsed as aforesaid for such section, for an amount in proportion to the distance, as provided in this act, but upon the same terms and conditions, in all respects, as required in regard to the bonds to be issued for the other sections of said road. And when the whole of said road shall be completed, the State of South Carolina shall be invested with a lien, without a deed from the company, upon the entire road, including the stock, right of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the company, as incident to or necessary for its business, for the payment of all said bonds, endorsed as aforesaid, as provided in this act, and for the interest accruing on said bonds. And after the Governor shall have caused bonds to be endorsed, as provided in the first section of this act, for the first section of the road, it shall not be lawful for said company to give, create, or convey to any person or persons, or body corporate whatever, any lien, incumbrance, or mortgage, of any kind, which shall have priority over, or come in conflict with the lien of the State herein secured ; and any such lien, incumbrance, or mortgage, shall be null and void, as against said lien or mortgage of the State, shall have priority over all other claims existing, or to exist, against said company.

V. That the State expressly reserves the right to enact hereafter all such laws as may be deemed necessary to protect the interests of the State, and to secure it against any loss in consequence of the endorsing of bonds, under the provisions of this act, but in such manner as not to impair the vested rights of the stockholders of the company.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and fifty-six, and in the eighty-first year of the sovereignty and independence of the United States of America.

JAMES CHESTNUT, Jr.,
President of the Senate.
JAMES SIMONS,
Speaker of the House of Representatives.

PART XI.

U. S. Statutes at Large, Vol. 12, P. 489.

AN ACT to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for Postal, Military and other purposes.

CHAPTER CXX.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Walter S. Burgess, William P. Blodget, Benjamin H. Cheever, Charles Fosdick Fletcher, of Rhode Island; Augustus Brewster, Henry P. Haven, Cornelins S. Bushnell, Henry Hammond, of Connecticut; Isaac Sherman, Dean Richmond, Royal Phelps, William H. Ferry, Henry A. Paddock, Lewis J. Stancliff, Charles A. Secor, Samuel R. Campbell, Alfred E. Tilton, John Anderson, Azariah Boody, John S. Kennedy, H. Carver, Joseph Field, Benjamin F. Camp, Orville W. Child, Alexander J. Bergen, Ben. Holliday, D. N. Barney, S. De Witt Bloodgood, William H. Grant, Thomas W. Olcott, Samuel B. Ruggles, James B. Wilson, of New York; Ephraim Marsh, Charles M. Harker, of New Jersey; John Edgar Thompson, Benjamin Haywood, Joseph H. Scranton, Joseph Harrison, George W. Cass, John H. Bryant, Daniel J. Morell, Thomas M. Howe, William F. Johnson, Robert Finney, John A. Green, E. R. Myre, Charles F. Wells, Jr., of Pennsylvania; Noah L. Wilson, Amasa Stone, William H. Clement, S. S. L'Hommedieu, John Brough, William Dennison, Jacob Blickinsderfer, of Ohio; William M. McPherson, R. W. Wells, Willard P. Hall, Armstrong Beatty, John Corby, of Missouri; S. J. Hensley, Peter Donahue, C. P. Huntington, T. D. Judah, James Bailey, James T. Ryan, Charles Hosmer, Charles Marsh, D. O. Mills, Samuel Bell, Louis McLane, George W. Mowe, Charles McLaughlin, Timothy Dame, John R. Robinson, of California; John Atchison and John D. Winters, of the Territory of Nevada; John D. Campbell, R. N. Rice, Charles A. Trowbridge and Ransom Gardner, Charles W. Penny, Charles T. Gorham, William McConnell, of Michigan; William F. Coolbaugh, Lucius H. Langworthy, Hugh T. Reid, Hoyt Sherman, Lyman Cook, Samuel R. Curtis, Lewis A. Thomas, Platt Smith, of Iowa; William B. Ogden, Charles G. Hammond, Henry Farnum, Amos C. Babcock, W. Seldon Gale, Nehemiah Bushnell and Lorenzo Bull, of Illinois; William H. Swift, Samuel T. Dana, John Bertram, Franklin S. Stevens, Edward R. Tinker, of Massachusetts; Franklin Gorin, Labin J. Bradford and John T. Levis, of Kentucky;

James Dunning, John M. Wood, Edwin Noyes, Joseph Eaton, of Maine; Henry H. Baxter, George W. Collamer, Henry Keyes, Thomas H. Canfield, of Vermont; William S. Ladd, A.M. Berry, Benjamin F. Harding, of Oregon; William Bunn, Junior, John Catlin, Levi Sterling, John Thompson, Elihu L. Phillips, Walter D. McIndoe, T. B. Stoddard, E. H. Brodhead, A. H. Virgin, of Wisconsin; Charles Paine, Thomas A. Morris, David C. Branham, Samuel Hanna, Jonas Votaw, Jesse L. Williams, Isaac C. Elston, of Indiana; Thomas Swan, Chauncey Brooks, Edward Wilkins, of Maryland; Francis R. E. Cornell, David Blakely, A. D. Seward, Henry A. Swift, Dwight Woodbury, John McKusick, John R. Jones, of Minnesota; Joseph A. Gilmore, Chrrles W. Woodman, of New Hampshire; W. H. Grimes, J. C. Stone, Chester Thomas, John Kerr, Werter R. Davis, Luther C. Challiss, Josiah Miller, of Kansas; Gilbert C. Monell and Augustus Kountz, T. M. Marquette, William H. Taylor, Alvin Saunders, of Nebraska; John Evans, of Colorado; together with five commissioners to be appointed by the Secretary of the Interior, and all persons who shall or may be associated with them, and their successors, are hereby created and erected into a body corporate and politic in deed and in law, by the name, style and title of "The Union Pacific Railroad Company," and by that name shall have perpetual succession, and shall be able to sue and to be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and have a common seal; and the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain and enjoy a continuous railroad and telegraph, with the appurtenances, from a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican river and the north margin of the valley of the Platte river, in the Territory of Nebraska, to the western boundary of Nevada Territory, upon the route and terms hereinafter provided, and is hereby vested with all the powers, privileges and immunities necessary to carry into effect the purposes of this act as herein set forth. The capital stock of said company shall consist of one hundred thousand shares of one thousand dollars each, which shall be subscribed for and held in not more than two hundred shares by any one person, and shall be transferable in such manner as the by-laws of said corporation shall provide. The persons hereinbefore named, together with those to be appointed by the Secretary of the Interior, are hereby constituted and appointed commissioners, and such body shall be called the Board of Commissioners of the Union Pacific Railroad and Telegraph Company, and twenty-five shall constitute a quorum for the transaction of business. The first meeting of of said board shall be held at Chicago at such time as the commissioners from Illinois herein named shall appoint, not more than three nor less than one month after the passage of this act, notice of which shall be given by them to the other commissioners by depositing a call thereof in the post office at Chicago, post paid, to their address at least forty days before said meeting, and also by publishing said notice in one daily newspaper in each of the cities of Chicago and St. Louis. Said board shall organize by the choice from its number of a president, secretary and treasurer, and they shall require from said treasurer such bonds as may be deemed proper, and may from time to time increase the amount thereof as they may deem proper. It shall be the duty of said board of commissioners to open books, or cause books to be opened, at such times and in such principal cities in the United

States as they or a quorum of them shall determine, to receive subscriptions to the capital stock of said corporation, and a cash payment of ten per centum on all subscriptions, and to receipt therefor. So soon as two thousand shares shall be in good faith subscribed for, and ten dollars per share actually paid into the the treasury of the company, the said president and secretary of said board of commissioners shall appoint a time and place for the first meeting of the subscribers to the stock of said company, and shall give notice thereof in at least one newspaper in each State in which subscription books have been opened at least thirty days previous to the day of meeting, and such subscribers as shall attend the meeting so called, either in person or by proxy, shall then and there elect by ballot not less than thirteen directors of said corporation; and in such election each share of said capital shall entitle the owner thereof to one vote. The president and secretary of the board of commissioners shall act as inspectors of said election, and shall certify under their hands the names of the directors elected at said meeting; and the said commissioners, treasurer and secretary shall then deliver over to said directors, all the properties, subscription books and other books in their possession, and thereupon the duties of said commissioners and the officers previously appointed by them shall cease and determine forever, and thereafter the stockholders shall constitute said body politic and corporate. At the time of the first and each triennial election of directors by the stockholders two additional directors shall be appointed by the President of the United States, who shall act with the body of directors, and to be denominated directors on the part of the government; any vacancy happening in the government directors at any time may be filled by the President or the United States. The directors to be appointed by the president shall not be stockholders in the Union Pacific Railroad Company. The directors so chosen shall, as soon as may be after their election, elect from their own number a president and vice-president, and shall also elect a treasurer and secretary. No person shall be a director in said company unless he shall be a bona fide owner of at least five shares of stock in the said company, except the two directors to be appointed by the President as aforesaid. Said company, at any regular meeting of the stockholders called for that purpose, shall have the power to make by-laws, rules and regulations as they shall deem needful and proper, touching the disposition of the stock, property, estate and effects of the company, not inconsistent herewith, the transfer of shares, the term of office, duties and conduct of their officers and servants, and all matters whatsoever which may appertain to the concerns of said company; and the said board of directors shall have power to appoint such engineers, agents and subordinates as may from time to time be necessary to carry into effect the object of this act, and to do all acts and things touching the location and construction of said road and telegraph. Said directors may require payment of subscriptions to the capital stock, after due notice, at such times and in such proportions as they shall deem necessary to complete the railroad and telegraph within the time in this act prescribed. Said president, vice-president and directors shall hold their office for three years, and until their successors are duly elected and qualified, or for such less time as the by-laws of the corporation may prescribe; and a majority of said directors shall constitute a quorum for the transaction of business. The secretary and treasurer shall give such bonds, with such security, as the board shall from time to require, and shall hold their offices at the will and pleasure of the directors. Annual meetings of the stockholders of the said corporation, for the choice of officers (when they are to be chosen) and for the transaction of annual business, shall be holden at such time and place and upon such notice as may be prescribed in the by-laws.

SEC. 2. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby granted to said company for the constsuction of said railroad and telegraph line; and the right, power and authority is hereby given to said company to take from the public lands adjacent to the lines of said road, earth, stone, timber and other materials for the construction thereof; said right of way is granted to said railroad to the extent of two hundred feet in width on each side of said railroad where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops and depots, machine shops, switches, side tracks, turn-tables and water stations. The United States shall extinguish as rapidly as may be the Indian titles to all lands falling under the operation of this act and required for the said right of way and grants hereinafter made.

SEC. 3. *And be it further enacted*, That there be, and is hereby granted to the said company, for the purpose of aiding in the construction of said railroad and telegraph line, to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores thereon, every alternate section of public land, designated by odd numbers, to the amount of five alternate sections per mile on each side of said railroad, on the line thereof, and within the limits of ten miles on each side of said road not sold, reserved or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not have attached, at the time the line of said road is definately fixed; *Provided*, that all the mineral lands shall be excepted from the operation of this act; but where the same shall contain the timber, the timber thereon is hereby granted to said company. And all such lands, so granted by this section, which shall not be sold or disposed of by said company within three years after the entire road shall have been completed, shall be subject to settlement and pre-emption, like all other lands, at a price not exceeding one dollar and twenty-five cents per acre, to be paid to said company.

Sec. 4. *And be it further enacted*, That whenever said company shall have completed forty consecutive miles of any portion of said railroad and telegraph line, ready for the service contemplated by this act, and supplied with all necessary drains, culverts, viaducts, crossings, sidings, bridges, turnouts, watering places, depots, equipments, furniture and all other appurtenances of a first class railroad, the rails and all the other iron used in the construction and equipment of said road to be American manufacture of the best quality, the President of the United States shall appoint three commissioners to examine the same and report to him in relation thereto; and if it shall appear to him that forty consecutive miles of said railroad and telegraph line have been completed and equipped in all respects as required by this act, then, upon certificate of said commissioners to that effect, patents shall be issued conveying the right and title to said lands to said company, on each side of the road as far as the same is completed, to the amount aforesaid; and patents shall in like manner issue as each forty miles of said railroad and telegraph line are completed, upon certificate of said commissioners. Any vacancies occurring in said board of commissioners by death, resignation or otherwise, shall be filled by the President of the United States; *Provided, however*, that no such commissioners shall be appointed by the President of the United States unless there shall be presented to him a statement, verified on oath by the president of said company, that such forty miles have been completed, in the manner required by this act, and setting forth with certainty the points where such forty miles begin and where the same end; which oath shall be taken before a judge of a court of record.

SEC. 5. *And be it further enacted*, That for the purposes herein mentioned the Secretary of the Treasury shall, upon the certificate in writing of said commissioners of the completion and equipment of forty consecutive miles of said railroad and telegraph, inaccordance with the provisions of this act, issue to said company bonds of the United States of one thousand dollars each, payable in thirty years after date, bearing six per centum per annum interest, (said interest payable semi-annually,) which interest may be paid in United States treasury notes or any other money or currency which the United States have or shall declare lawful money and a legal tender, to the amount of sixteen of said bonds per mile for such section of forty miles; and to secure the repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, together with all interest thereon which shall have been paid by the United States; the issue of said bonds and delivery to the company shall *ipso facto* constitute a first mortgage on the whole line of the railroad and telegraph, together with the rolling stock, fixtures and property of every kind and description, and in consideration of which said bonds may be issued; and on the refusal or failure of said company to redeem said bonds, or any part of them, when required so to do by the Secretary of the Treasury, in accordance with the provisions of this act, the said road, with all the rights, functions, immunities, and appurtenances thereunto belonging, and also all the lands granted to the said company by the United States, which, at the time of said default, shall remain in the ownership of the said company, may be taken possession of by the Secretary of the Treasury, for the use and benefit of the United States: *Provided*, This section shall not apply to that part of any road now constructed.

Sec. 6. *And be it further enacted*, That the grants aforesaid are made upon condition that said company shall pay said bonds at maturity, and shall keep said railroad and telegraph line in repair and use, and shall at all times transmit despatches over said telegraph line, and transport mails, troops and munitions of war, supplies, and public stores upon said railroad for the government, whenever required to do so by any department thereof, and that the government shall at all times have the preference in the use of the same for all the purposes aforesaid (at fair and reasonable rates of compensation, not to exceed the amounts paid by private parties for the kind of service; and all compensation for services rendered for the government shall be applied to the payment of said bonds and interest until the whole amount is fully paid. Said company may also pay the United States, wholly or in part, in the same or other bonds, treasury notes, or other evidences of debt against the United States, to be allowed at par; and after said road is completed, until said bonds and interest are paid, at least five per centum of the net earnings of said road shall also be annually applied to the payment thereof.

SEC. 7. *And be it further enacted*, That said company shall file their assent to this act, under the seal of said company, in the Department of the Interior, within one year after the passage of this act, and shall complete said railroad and telegraph from the point of beginning as herein provided, to the western boundary of Nevada Territory before the first day of July, one thousand eight hundred and seventy-four: *Provided*, That within two years after the passage of this act said company shall designate the general route of said road, as near as may be, and shall file a map of the same in the Department of the Interior, whereupon the Secretary of the Interior shall cause the lands within fifteen miles of said designated route or routes to be withdrawn from pre-emption, private entry, and sale; and when any portion of said route shall be finally located, the Secretary of the Interior shall cause the said lands hereinbefore granted to be surveyed and set off as fast as may be necessary for the purpose herein named: *Provided*, That in fixing the point of connection of the main trunk with the eastern connections, it shall be fixed at the most practical point for the construction of the Iowa and Missouri branches, as hereinafter provided.

SEC. 8. *And be it further enacted*, That the line of said railroad and telegraph shall commence at a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican River and the north margin of the valley of the Platte River, in the Territory of Nebraska, at a point to be fixed by the President of the United States, after actual surveys; thence running westerly upon the most direct, central, and practicable route, through the territories of the United States, to the western boundary of the Territory of Nevada, there to meet and connect with the line of the Central Pacific Railroad Company of California.

SEC. 9. *And be it further enacted,* That the Leavenworth, Pawnee, and Western Railroad Company of Kansas are hereby authorized to construct railroad and telegraph line, from the Missouri River, at the mouth of the Kansas River, on the south side thereof, so as to connect with the Pacific Railroad of Missouri, to the aforesaid point, on the one hundredth meridian of longitude west from Greenwich, as herein provided, upon the same terms and conditions in all respects as are provided in this act for the construction of the railroad and telegraph line first mentioned, and to meet and connect with the same at the meridian of longitude aforesaid; and in case the general route or line of road from the Missouri River to the Rocky Mountains should be so located as to require a departure northwardly from the proposed line of said Kansas Railroad before it reaches the meridian of longitude aforesaid, the location of said Kansas road shall be made so as to conform thereto; and said railroad through Kansas shall be so located between the mouth of the Kansas River, as aforesaid, and the aforesaid point, on the one hundredth meridian of longitude, that the several railroads from Missouri and Iowa, herein authorized to connect with the same, can make connection within the limits prescribed in this act, provided the same can be done without deviating from the general direction of the whole line to the Pacific coast. The route in Kansas, west of the meridian of Fort Riley, to the aforesaid point, on the one hundredth meridian of longitude, to be subject to the approval of the President of the United States, and to be determined by him on actual survey. And said Kansas company may proceed to build said railroad to the aforesaid point, on the one hundreth meridian of longitude west from Greenwich, in the Territory of Nebraska. The Central Pacific Railroad Company of California, a corporation existing under the laws of the State of California, are hereby authorized to construct a railroad and telegraph line from the Pacific coast, at or near San Francisco, or the navigable waters of the Sacramento River, to the eastern boundary of California, upon the same terms and conditions, in all respects, as are contained in this act for the construction of said railroad and telegraph line first mentioned, and to meet and connect with the first mentioned railroad and telegraph line on the eastern boundary of California. Each of said companies shall file their acceptance of the condition of this act in the Department of the Interior within six months after the passage of this act.

SEC. 10. *And be it further enacted*, That the said company chartered by the State of Kansas shall complete one hundred miles of their said road, commencing at the mouth of the Kansas River as aforesaid, within two years after filing their assent to the conditions of this act, as herein provided, and one hundred miles per year thereafter until the whole is completed; and the said Central Pacific Railroad Company of California shall complete fifty miles of their said road within two years after filing their assent to the provisions of this act, as herein provided, and fifty miles per year thereafter until the whole is completed; and after completing their roads, respectively, said companies, or either of them, may unite upon equal terms with the first-named company in constructing so much of said railroad and telegraph line and branch railroads and telegraph lines in this act hereinafter mentioned, through the

Territories from the State of California to the Missouri River, as shall then remain to be constructed, on the same terms and conditions as provided in this act in relation to the said Union Pacific Railroad Company. And the Hannibal and St. Joseph Railroad, the Pacific Railroad Company of Missouri, and the first-named company, or either of them, on filing their assent to this act, as aforesaid, may unite upon equal terms, under this act, with the said Kansas company, in constructing said railroad and telegraph, to said meridian of longitude, with the consent of the said State of Kansas; and in case said first-named company shall complete their line to the eastern boundary of California before it is completed across said State by the Central Pacific Railroad Company of California, said first-named company is hereby authorized to continue in constructing the same through California, with the consent of said State, upon the terms mentioned in this act, until said roads shall meet and connect, and the whole line of said railroad and telegraph is completed; and the Central Pacific Railroad Company of California, after completing its road across said State, is authorized to continue the construction of said railroad and telegraph through the Territories, of the United States to the Missouri River, including the branch roads specified in this act, upon the routes hereinbefore and and hereinafter indicated, on the terms and conditions provided in this act in relation to the said Union Pacific Railroad Company, until said roads shall meet and connect, and the whole line of said road and branches and telegraph is completed.

SEC. 11. *And be it further enacted*, That for three hundred miles of said road most mountainous and difficult of construction, to-wit: one hundred and fifty miles westwardly from the eastern base of the

Rocky Mountains, and one hundred and fifty miles eastwardly from the Western base of the Sierra Nevada mountains, said points to be fixed by the President of the United States, the bonds to be issued to aid in the construction thereof shall be treble the number per mile hereinbefore provided, and the same shall be issued, and the lands herein granted be set apart, upon the construction of every twenty miles thereof, upon the certificate of the commissioners as aforesaid that twenty consecutive miles of the same are completed, and between the sections last named of one hundred and fifty miles each, the bonds to be issued to aid in the construction thereof shall be double the number per mile first mentioned, and the same shall be issued, and the lands herein granted be set apart, upon the construction of every twenty miles thereof, upon the certificate of the commissioners as aforesaid, that twenty consecutive miles of the same are completed; *Provided*, that no more than fifty thousand of said bonds shall be issued under this act to aid in constructing the main line of said railroad and telegraph.

SEC. 12. *And be it further enacted*, That whenever the route of said railroad shall cross the boundary of any State or Territory, or said meridian of longitude, the two companies meeting or uniting there shall agree upon its location at that point, with reference to the most direct and practible through route, and in case of difference between them as to said location, the President of the United States shall determine the said location; the companies named in each State and Territory to locate the road across the same between the points so agreed upon except as herein provided. The track upon the entire line of railroad and branches shall be of uniform width, to be determined by the President of the United States, so that, when completed, cars can be run from the Missouri river to the Pacific coast; the grades and curves shall not exceed the maximum grades and curves of the Baltimore and Ohio Railroad; the whole line of said railroad and branches and telegraph shall be operated and used for all purposes of communication, travel and transportation, so far as the public and the government are concerned, as one connected, continuous line; and the companies herein named in Missouri, Kansas and California filing their consent to the provisions in this act, shall receive and transport all iron rails, chairs, spikes, ties, timber, and all materials required for constructing and furnishing said mentioned line between the aforesaid point on the one hundredth meridian of longitude, and western boundary of Nevada Territory, whenever the same is required by said first named company, at cost, over that portion of the roads of said companies constructed under the provisions of this act.

SEC. 13. *And be it further enacted*, That the Hannibal and Saint Joseph Railroad Company of Missouri may extend its roads from St. Joseph, via Atchison, to connect and unite with the road through Kansas, upon filing its assent to the provisions of this act, upon the same terms and conditions, in all respects, for one hundred miles next to the Missouri river, as are provided in this act for the construction of the railroad and telegraph line first mentioned, and may for this purpose use any railroad charter which has been or may be granted by the Legislature of Kansas; *Provided*, that if actual surveys shall render it desirable, the said company may construct their road, with the consent of the Kansas Legislature, on the most direct and practicable route west from St. Joseph, Missouri, so as to connect and unite with the road leading from the western boundary of Iowa at any point east of the one hundredth meridian of west longitude, or with the main trunk road at said point; but in no event shall lands or bonds be given to said company, as herein directed, to aid in the construction of their said road for a greater distance than one hundred miles. And the Leavenworth, Pawnee and Western Railroad Company of Kansas may construct their road from Leavenworth to unite with the road through Kansas.

SEC. 14. *And be it further enacted*, That the said Union Pacific Railroad Company is hereby authorized and required to construct a single line of railroad and telegraph from a point on the western boundary of the State of Iowa, to be fixed by the President of the United States, upon the most direct and practicable route, to be subject to his approval, so as to form a connection with the lines of said company at some point on the one hundreth meridian of longitude aforesaid, from the point of commencement on the western boundary of the State of Iowa, upon the same terms and conditions, in all respects, as are contained in this act for the construction of the railroad and telegraph first mentioned; and the said Union Pacific Railroad Company shall complete one hundred miles of the road and telegraph in this section provided for, in two years after filing their assent to the conditions of this act, as by the terms of this act required, and at the rate of one hundred miles per year thereafter, until the whole is completed; *Provided*, that a failure upon the part of said company to make such connection in the time aforesaid, and to perform the obligations imposed on said company by this section, and to operate said road in the same manner as the main line shall be operated, shall forfeit to the government of the United States all the rights, privileges and franchises granted to and conferred upon said company by this act. And whenever there shall be a line of railroad completed through Minnesota or Iowa to Sioux City, then the said Pacific Railroad Company is hereby authorized and required to construct a railroad and telegraph from said Sioux City upon the most direct and practicable route to a point on, and so as to connect with, the branch railroad and telegraph in this section hereinbefore mentioned, or with the said Union Pacific Railroad, said point of junction to be fixed by the President of the United States, not further west than the one hundreth meridian of longitude aforesaid, and on the same terms and conditions as provided in this act for the construction of the Union Pacific Railroad as aforesaid, and to complete the same at the rate of one hundred miles per year; and should said company fail to comply with the requirements of this act in relation to the said Sioux City railroad and telegraph, the said company shall suffer the same forfeitures prescribed in relation to the Iowa branch railroad and telegraph hereinbefore mentioned.

SEC. 15. *And be it further enacted*, That any other railroad company now incorporated, or hereafter to be incorporated, shall have the right to connect their road with the road and branches provided for by this act, at such places and upon such just and equitable terms as the President of the United States may prescribe. Wherever the word company is used in this act it shall be construed to embrace the words their associates, successors and assigns, the same as if the words had been properly added thereto.

SEC. 16. *And be it further enacted*, That at any time after the passage of this act, all of the railroad companies named herein, and assenting hereto, or any two or more of them, are authorized to form themselves into one consolidated company; notice of such consolidation, in writing, shall be filed in the Department of the Interior, and such consolidated company shall thereafter proceed to construct said railroad and branches and telegraph line upon the terms and conditions provided in this act.

SEC. 17. *And be it further enacted,* That in case said company or companies shall fail to comply with the terms and conditions of this act, by not completing said road and telegraph and branches within a reasonable time, or by not keeping the same in repair and use, but shall permit the same, for an unreasonable time, to remain unfinished, or out of repair, and unfit for use, Congress may pass any act to insure the speedy completion of said road and branches, or put the same in repair and use, and may direct the income of said railroad and telegraph line to be thereafter devoted to the use of the United States, to repay all such expenditures caused by the default and neglect of such company or companies; *Provided*, that if said roads are not completed, so as to form a continuous line of railroad, ready for use, from the Missouri river to the navigable waters of the Sacramento river, in California, by the first day of July, eighteen hundred and seventy six, the whole of all of said railroads before mentioned and to be constructed under the provisions of this act, together with all their furniture, fixtures, rolling stock, machine shops, lands, tenements and hereditaments, and property of every kind and character, shall be forfeited to and be taken possession of by the United States; *Provided*, that of the bonds of the United States in this act provided to be delivered for any and all parts of the roads to be constructed east of the one hundredth meridian of west longitude from Greenwich, and for any part of the road west of the west foot of the

Sierra Nevada mountain, there shall be reserved of each part and instalment twenty-five per centum, to be and remain in the United States treasury, undelivered, until said road and all parts thereof provided for in this act are entirely completed ; and of all the bonds provided to be delivered for the said road, between the two points aforesaid, there shall be reserved out of each instalment fifteen per centum, to be and remain in the treasury until the whole of the road provided for in this act is fully completed ; and if the said road or any part thereof shall fail of completion at the time limited therefor in this act, then and in that case the said part of said bonds so reserved shall be forfeited to the United States.

SEC. 18. *And be it further enacted*, That whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed for services rendered for the United States, after deducting all expenditures, including repairs, and the furnishing, running and managing of said road, shall exceed ten per centum upon its cost, exclusive of the five per centum to be paid to the United States, Congress may reduce the rates of fare thereon, if unreasonable in amount, and may fix and establish the same by law. And the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the government at all times (but particularly in time of war) the use and benefits of the same for postal, military and other purposes, Congress may, at any time, having due regard for the rights of said companies, amend herein, add to, alter, amend, or repeal this act.

Sec. 19. *And be it further enacted,* That th several railroad companies herein named are authorized to enter into an agreement with the Pacific Telegraph Company, the Overland Telegraph Company, and the California State Telegraph Company, so that the present line of telegraph between the Missouri river and San Francisco may be moved upon or along the line of said railroad and branches as fast as said roads and branches are built; and if said arrangement be entered into, and the transfer of said telegraph be made in accordance therewith to the line of said railroad and branches, such transfer shall, for all purposes of this act, be held and considered a fulfillment on the part of said railroad companies of the provisions of this act in regard to the construction of said line of telegraph. And, in case of disagreement, said telegraph companies are authorized to remove their line of telegraph along and upon the line of railroad herein contemplated without prejudice to the rights of said railroad companies named herein.

Sec. 20. *And be it further enacted,* That the corporation hereby created and the roads connected therewith, under the provisions of this act, shall make to the Secretary of the Treasury an annual report, wherein shall be set forth—

First. The names of the stockholders and their places of residence, so far as the same can be ascertained;

Second. The names and residences of the directors, and all other officers of the company;

Third. The amount of stock subscribed, and the amount thereof actually paid in;

Fourth. A description of the lines of road surveyed, of the lines thereof fixed upon for the construction of the road, and the cost of such surveys;

Fifth. The amount received from passengers on the road;

Sixth. The amount received for freight thereon;

Seventh. A statement of the expense of said road and its fixtures;

Eighth. A statement of the indebtedness of said company, setting forth the various kinds thereof;

Which report shall be sworn to by the president of the said company, and shall be presented to the Secretary of the Treasury on or before the first day of July in each year.

Approved, July 1, 1862.

PART XII.

REPORT OF JOINT SELECT COMMITTEE OF 1857-8, APPOINTED TO INVESTIGATE THE OFFICES OF COMPTROLLER AND SECRETARY OF STATE, PP. 3, 35 to 84 inclusive, 142.

NASHVILLE, August 11, 1858.

To His Excellency, ISHAM G. HARRIS, *Governor of the State of Teunessee:*

The undersigned, a Joint Select Committee, appointed by the last General Assembly, "To enquire into the mode in which the securities of the several Free Banks have been managed in the office of the Comptroller—whether any changes have been made in the securities—how the accounts of said Banks have been kept in said office—to enquire fully how all matters touching the Free Banks have been managed in said office; the Committee will also enquire and ascertain what amount of interest has been paid on the State Coupon Bonds, and what amount should have been paid, so as to ascertain whether any payments have been improperly made—the Committee will report fully upon all matters referred to them—and that they enquire, whether or not, any of the Free Banks have received from the Comptroller any more of the notes of the said Banks than State bonds filed in the Comptroller's office, as by law required, and whether or not any bonds heretofore filed in the Comptroller's office have been withdrawn and others filed"—beg leave to submit the following report:

The Committee met at the State Capitol, May 10, 1858, in pursuance of the above instructions, and proceeded immediately to the discharge of the several duties assigned them.

. . . .

The Committee beg leave to submit the following report under that part of the resolution which requires them to "inquire and ascertain what amount of interest has been paid on the State coupon bonds, and what amount should have been paid, so as to ascertain whether any payments have been improperly made."

The Committee, upon this branch of their investigation, have had many difficulties to encounter. They referred to the Comptroller's reports for the last six years for the information desired, but were soon convinced that they could not be relied upon, either as to the exact amount of our indebtedness, or as to the rate of interest the bonds were bearing; nor did said reports furnish us with full information as to the bonds loaned to the various Internal Improvement Companies, or as to the bonds endorsed by the State. To report fully and accurately under the resolution, it became necessary to get at the actual amount of indebtedness, the date when the bonds were issued, and when they fell due, and the rate of interest they bear, which would give the amount of interest due annually on the bonds outstanding. It likewise became necessary to arrive accurately at the amount of bonds loaned and endorsed by the State to the various Companies, and to see the amount of interest that they bore annually, and the amount they actually paid; and whether the said Companies had always met the interest paid on the bonds loaned or endorsed. To arrive at the whole matter correctly, the Committee have carefully examined and prepared the original books and papers in the office of the Comptroller and Secretary of State, which have been very imperfectly kept, and from them, and other information, they have made out tables showing everying in regard to the issuance of bonds, and the interest they bear, when issued, and when they fall due. Each item of State indebtedness has been very carefully and critically examined from the original sources, and the Committee feel that they can submit the various tables, each one of which will be fully explained hereafter, with perfect confidence in their accuracy.

The Committee find it a matter of impossibility to report the precise amount of interest paid upon coupon bonds, from the fact that all the original Bonds issued to the Internal Improvement Companies, and to increase the capital of the Bank of Tennessee, &c., did not have coupons attached to them, and when interest was paid on these Bonds, the evidence of it was placed on the Bonds. By act of the 21st of February, 1852, a law was passed permitting the holders of Bonds that did not have coupons attached to them, to have them renewed, and coupon Bonds issued to them in lieu of the old Bonds, and have the latter canceled. Under that act a large number of Bonds were renewed with coupons attached. A correct list of these renewals is appended to this report. There are still a large number of the old Bonds outstanding, that have not been renewed, and the Committee cannot possibly arrive at the separate items of interest paid on the Bonds that do not have coupons attached, and on Bonds with coupons attached. The tables will, however, show the amount of interest due on our State debt from January 1, 1850, to July 1, 1858, and the amount actually paid, and this will show any amounts improperly paid.

The Committee have had but two sources from which to derive the amount of interest paid on our State debt—one of which is the books of the Comptroller, and the other is the coupons paid off and canceled by the Comptroller; but the interest thus paid off is a part of the interest that appears on the books in his office. The interest on a portion of our bonds is payable in New York and Philadelphia, and the remainder is payable at the Treasury, on the warrant of the Comptroller. Whether the coupons were paid here or elsewhere, the warrants merely show that so much interest has been paid on a certain character of bonds. The interest payable in New York and Philadelphia, is paid by the Bank of Tennessee, as agent of the Treasurer, by act passed February 9, 1850. By the same act, the Bank of Tennessee is required to declare dividends on the 1st of January and July of each year, but this law seems never to have been observed. For instance, no dividends at all were declared for the year 1856, and we find that the Bank has in one case held up her interest account for eighteen months, without presenting it to the Comptroller for settlement. This has presented some difficulty in ascertaining the particular interest for any one year. For instance, though the Bank declared a dividend in February and September of 1857, yet they did not present their account of interest paid in New York and Philadelphia from January, 1857, to June 8, 1858, inclusive, until about the 15th of June, 1858, though the checks of the Treasurer have always been paid, whether the dividends were declared or not, or whether there was money or not in the Bank to the credit of the Treasury.

If the account for interest were presented every six months, the amount of interest for any particular year could be much more easily ascertained, than when the account is withheld for a longer period. The Committee have had no difficulty at all in ascertaining the amount of interest paid on coupon bonds in New York and Philadelphia by the Bank of Tennessee, as regular books have been kept with the numbers of the bonds placed on the books, and when a coupon was presented and paid, it was invariably canceled and pasted on the book opposite the number, the coupon always bearing the same number as the bond. The Committee, however, have not been able to arrive at the coupon interest paid at the office of the Comptroller for the last six years, from the fact that there have been no regular books kept by him in which the coupons were pasted in any order or regularity. The coupons have been pasted on without reference to the number they bear, or the character of them, or the date they fall due; and the books do not show any particular year or month when the coupons were paid off, and of course very little can be discovered from them. The Committee would recommend that the Comptroller shall procure books and cancel and paste on the coupons similarly to those now held by the Bank of Tennessee, and then there will be no difficulty in arriving at the amount of interest paid by him on coupons.

. . . .

EXPLANATORY NOTES.

The following tables marked "A" show the number and amount of Bonds loaned to, and endorsed for the various Railroad Companies, and the names of the Companies. They likewise show the Nos. of the Bonds, the rate of interest they bear, the time they fall due, and the time the first coupon falls due. These tables include all the Bonds that have been issued to Railroad Companies, or Bonds which have been endorsed by the State for said Companies, to July 1, 1858.

Table "B" is a recapitulation of the whole amount of Bonds loaned to, and endorsed for the various railroad Companies, and the semi-annual and annual interest they bear.

The table "C" show the number of bonds, when the coupons are due and paid, likewise the semi-annual interest due on the Bonds of each Railroad Company, and which amount with the exchange is required to be paid into the Bank of Tennessee fifteen days before the 1st of January and July, of each year.

The tables "D" show when the coupons are due and paid, and the amount of money paid by the Companies to the Bank of Tennessee, and the number of coupons returned by them, showing in full how the interest has been paid by the various Railroad Companies on the Bonds loaned to them. The Committee have carefully examined the whole matter from July 1, 1853, to July 1, 1858, and find it correct, and they are confident that it is also correct before that time.

These tables will show all the transactions of the Bank of Tennessee, in paying off the interest Bonds loaned to the Railroad Companies. The Committee find that the accounts of the Bank of Tennessee, with the Railroad Companies and the State have been kept with great care and accuracy, and are correct in every particular, and she has made a most satisfactory exhibit of the transactions with the Railroads, also, with the State Treasury and the Comptroller.

[A.]

NASHVILLE AND CHATTANOOGA RAILROAD COMPANY.

When due.	Nos. Bonds.	Endorsed Bonds of the State of Tennessee.	
July 1, 1881.......	1 to 250	250 bonds, 6's, $1,000 each.	$250,000 00
" "	251 to 500	250 " " " "	250,000 00
" 1882.......	1 to 175	175 " " " "	175,000 00
" "	176 to 350	175 " " " "	175,000 00
Jan. 1, 1874.......	551 to 650	100 " " " "	100,000 00
" "	401 to 550	150 " " " "	150,000 00
" "	326 to 400	75 " " " "	75,000 00
" 1879.......	1 to 325	325	325,000 00
To June 25, 1858..		1,500 bonds, amounting to...	$1,500,000 00

[A.]

EAST TENNESSEE AND VIRGINIA RAILROAD COMPANY.

When due.	No. Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892.......	1706 to 1974	269 bonds 1st coupons due 1st July, 1855.	$269,000 00
" "	2993 to 3092	100 bonds 1st coupons due Jan. 1, 1856.	100,000 00
	3133 to 3232	100 due July 1, 1856	100,000 00
	4272 to 4391	120 " Jan. 1, 1857	120,000 00
	4841 to 4895	55 " " "	55,000 00
	5048 to 5242	195 " July 1, "	195,000 00
	5303 to 5452	150 " " "	150,000 00
	5793 to 5862	70 " Jan. 1, 1858.	70,000 00
	5988 to 6087	100 " July 1, "	100,000 00
	6120 to 6219	100 " " "	100,000 00
	7088 to 7130	43 " " "	43,000 00
	1 to 10	10 " Jan. 1, 1853	10,000 00
	11 to 300	290 " " "	290,000 00
		1602	$1,602,000 00
		Endorsed Bonds.	
May 30, 1886.....	1 to 200	200 Endorsed Bonds 1st coupons due September 30, 1856,	200,000 00
To June 25, 1858..		1802 bonds amounting to....	$1,802,000 00

[A.]

EAST TENNESSEE AND GEORGIA RAILROAD COMPANY.

When due.	No. Bonds.	Loaned Bonds of the State of Tennessee.	
January 1, 1892...	1 to 150	150 bonds 1st coupons due Jan. 1, 1851	$150,000 00
	151 to 250	100 due July 1, 1851	100,000 00
	251 to 350	100 " " "	100,000 00
	726 to 740	20 " Jan. 1, 1854	20,000 00
	746 to 875	130 " July 1, 1854	130,000 00
	876 to 895	20 " Jan. 1, 1855	20,000 00
	896 to 915	20 " " "	20,000 00
	1216 to 1505	290 " July 1, 1855	290,000 00
	1975 to 2015	40 " " "	40,000 00
	6681 to 6780	100 " " 1858	100,000 00
		Endorsed Bonds.	$970,000 00
	1 to 150	150 Endorsed Bonds 1st coupons due 1st July, 1857,	150,000 00
	1 to 150	150 Endorsed Bonds 1st coupons due 1st Jan., 1857,	150,000 00
To June 25, 1858..		1270 bonds amounting to....	$1,270,000 00

[A.]

MEMPHIS AND CHARLESTON RAILROAD COMPANY.

When due.	Nos. Bonds.	Loaned Bonds of the State of Tennessee.	
January 1, 1892...	326 to 565	240 bonds 1st coupons due Jan. 1, 1853	$240,000 00
	566 to 725	160 due July 1, 1853	160,000 00
	1506 to 1705	200 " July 1, 1855	200,000 00
	2015 to 2054	40 " Jan. 1, 1856	40,000 00
	2055 to 2154	100 " " 1, 1856	100,000 00
	3091 to 3112	20 " July 1, 1856	20,000 00
	3403 to 3537	135 " " 1, 1856	135,000 00
	4222 to 4271	50 " Jan. 1, 1857	50,000 00
	4392 to 4441	50 " " 1, 1857	50,000 00
	4492 to 4596	105 " " 1, 1857	105,000 00
To June 25, 1858..		1100 Bonds amounting to.....	$1,100,000 00

[A.]

MEMPHIS AND OHIO RAILROAD COMPANY.

When due.	Nos. Bonds.	Loaned Bonds of the State of Tennessee.	
January 1, 1892...	2155 to 2454	300 bonds 1st coupons due Jan. 1, 1856	$300,000 00
	2455 to 2494	40 due Jan. 1, 1856	40,000 00
	2892 to 2991	100 " Jan. 1, 1856	100,000 00
	3113 to 3132	20 " July 1, 1856	20,000 00
	3233 to 3402	170 " July 1, 1856	170,000 00
	5243 to 5282	40 " July 1, 1857	40,000 00
To June 25, 1858..		670 Bonds amounting to.....	$670,000 00

[A.]

TENNESSEE AND ALABAMA RAILROAD COMPANY.

When due.	Nos. Bonds.	Loaned Bonds of the State of Tennessee.	
	916 to 1115	200 bonds 1st coupons due Jan. 1, 1855	$200,000 00
Jan. 1, 1892.......	1116 to 1215	100 due Jan. 1, 1855	100,000 00
	6220 to 6269	50 " July 1, 1858	50,000 00
	6320 to 6423	104 " " "	104,000 00
	6781 to 6848	68 " " "	68,000 00
	6849 to 7080	232 " " "	232,000 00
	5971 to 5987	17 " " "	17,000 00
		771	$771,000 00
		Endorsed Bonds of the State of Teenessee.	
Jan. 1, 1857.......		46 Endorsed bonds 1st coupons due July 1, 1857............	46,000 00
To Jan. 25, 1858..		817 Bonds amounting to.....	$817,000 00

[A.]

McMINNVILLE AND MANCHESTER RAILROAD CO.

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892	2553 to 2852	300 Bonds first coupons due Jan. 1, 1856	300,000 00
" " "	4472 to 4491	20 " " " " 1857	20,000 00
" " "	4896 to 4947	52 " " " " 1857	52,000 00
To June 25, 1858..		372 Bonds amounting to...	$372,000 00

[A.]

MISSISSIPPI AND TENNESSEE RAILROAD COMPANY.

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892.......	2495 to 2552	58 Bonds first coupons due Jan. 1, 1856	58,000 00
" " "	2853 to 2891	40 " " " "	40,000 00
To June 25, 1858..		98 Bonds amounting to....	$98,000 00

[A.]

MISSISSIPPI CENTRAL AND TENNESSEE RAILROAD CO.

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892... ..	3586 to 3885	300 Bonds first coupons due July 1, 1856	300,000 00
" " "	4597 to 4840	244 " " Jan. 1, 1857	244,000 00
" " "	5493 to 5522	30 " " " 1, 1858	30,000 00
		574 Bonds amounting to.....	$574,000 00

[A.]

MOBILE AND OHIO RAILROAD COMPANY.

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892.......	3886 to 4185	300 Bonds first Coupons due July 1, 1856	$300,000 00
" "	4186 to 4221	36 " "	36,000 00
" "	4948 to 5047	100 Jan. 1, 1857	100,000 00
" "	5523 to 5792	270 " 1858	270,000 00
" "	5903 to 5970	68 " "	68,000 00
To June 25, 1858.		774 Bonds amounting to......	$774,000 00

[A.]

MEMPHIS AND LITTLE ROCK RAILROAD COMPANY.

When due.	Nos. of Bonds.	Endorsed Bonds of the State of Tennessee.	
Jan. 1, 1886		119 Bonds first Coupons due July 1, 1856	$119,000 00
" " 1887.......	1334 to 1519 Except No. 1433	183 due July 1, 1857	183,000 00
" " 1888.......		48 " " 1858	48,000 00
		350	350,000 00
		Endorsed Bonds. (350 ens'd. bonds, $350,000)	
Total to June 25. 1858............		350 Bonds amounting to. ...	$350,000 00

[A.]

EDGEFIELD AND KENTUCKY AND LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

(Cumberland River Bridge Aid.)

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892.......	5283 to 5302	20 Bonds falling due July 1, 1857	$20,000 00
" "	5453 to 5472	20 " "	20,000 00
" "	5473 to 5492	20 Jan. 1, 1858	20,000 00
" "	5863 to 5902	40 " "	40,000 00
" "	6088 to 6099	12 July 1, "	12,000 00
" "	7000 to 7027	28 " "	28,000 00
		140 Bonds amounting to..	$140,000 00

[A.]

MEMPHIS, CLARKSVILLE AND LOUISVILLE RAILROAD COMPANY.

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892.......	6100 to 6119	20 Bonds first Coupons due July 1, 1858	$20,000 00

[A.]

WINCHESTER AND ALABAMA RAILROAD COMPANY.

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892.......	6674 to 6680	7 Bonds first coupons due July 1, 1858	7,000 00
" ".......	7081 to 7087	7 " " "	7,000 00
To June 25, 1858..		14 Bonds amounting to.....	$14,000 00

[A.]

LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892.......	6120 to 6219 6270 to 6319	150 Bonds first Coupons due July 1, 1858	150,000 00
" ".......	6424 to 6573	150 " " "	150,000 00
To June 25, 1858..		300 Bonds amounting to......	$300,000 00

[A.]

EDGEFIELD AND KENTUCKY RAILROAD COMPANY.

When due.	Nos. of Bonds.	Loaned Bonds of the State of Tennessee.	
Jan. 1, 1892..... .	7131 to 7430	300 Bonds first coupons due July 1, 1858 (200 coupons cut off, leaving 100 due July 1, 1858)......	$300,000 00
To June 25, 1858..		300 Bonds amounting to.....	

[B.]

RECAPITTLATION AND INTEREST TO JULY 1, 1858.

Names of Company.	Description Bonds	Amount.	Amount Interest.	Semi-annual Interest.	Total Amount.
Nashville and Chattanooga Railroad Company..............	Endorsed bonds.	$1,500,000	$90,000	$45,000	
East Tennessee and Virginia Railroad Company............	Loaned "	1,602,000	96,120	48,060	
" " " " "	Endorsed "	200,000	12,000	6,000	
East Tennessee and Georgia Railroad Company............	Loaned "	970,000	58,200	29,100	
" " " " "	Endorsed "	300,000	18,000	9,000	
Memphis and Charleston Railroad Company...............	Loaned "	1,100,000	66,000	33,000	
Memphis and Ohio Railroad Company.....................	" "	670,000	40,200	20,100	
Tennessee and Alabama Railroad Company................	" "	771,000	46,260	23,130	
" " " "	Endorsed "	46,000	2,760	1,380	
McMinnville and Manchester Railroad Company...........	Loaned "	372,000	22,320	11,160	
Mississippi and Tennessee Railroad Company............	" "	98,000	5,880	2,940	
Mississippi Central and Tennessee Railroad Company........	" "	574,000	34,440	17,220	
Mobile and Ohio Railroad Company......................	" "	774,000	46,440	23,220	
Memphis and Little Rock Railroad Company..............	Endorsed "	350,000	21,000	10,500	
Edgefield and Kentucky and Louisville and Nashville R. R. Co.	Loaned "	140,000	8,400	4,200	
Memphis, Clarksville and Louisville Railroad Company......	" "	20,000	1,200	600	
Winchester and Alabama Railroad Company...............	" "	14,000	840	420	
Louisville and Nashville Railroad Company..............	" "	300,000	18,000	9,000	
Edgefield and Kentucky Railroad Company...............	" "	300,000	18,000	900	
		$10,101,000	$606,060	$303,030	

[C.]

INTEREST ACCOUNT OF EAST TENNESSEE AND VIRGINIA RAILROAD COMPANY.

Bonds.	When Coupons due.	When Coupons paid.	Amt Semi-Annual Int.
300	January 1, 1853.	January 1, 1853.	$9,000
300	July 1, 1853.	July 1, 1853.	9,000
300	January 1, 1854.	January 1, 1854.	9,000
300	July 1, 1854.	July 1, 1854.	9,000
300	January 1, 1855.	January 1, 1855.	9,000
269			
569	July 1, 1855.	July 1, 1855.	17,070
100			
669	January 1, 1856.	January 1, 1856.	20,070
100			
769	July 1, 1856.	July 1, 1856.	23,070
175			
944	January 1, 1857.	January 1, 1857.	28,320
345			
1289	July 1, 1857.	July 1, 1857.	38,670
70			
1359	January 1, 1858.	January 1, 1858.	40,770
243			
1602	July 1, 1858.	July 1, 1858.	48,060

[D.]

INTEREST PAID BY BANK OF TENNESSEE, FOR THE EAST TENN. & VA. R. R. COMPANY.

When due.	When paid.	In Cash.	No. coupons.	Amount coupons.	Total interest paid by Bank.
Jan. 1, 1853,	Jan. 1, 1853	$8,490 00			$8,490 00
July 1, 1853,	July 1, 1853	5,340 00	134	4,020 00	9,360 00
Jan. 1, 1854,	July 1, 1854	4,980 00	134	4,020 00	9,000 00
July 1, 1854,	June 10, 1854	6,300 00	90	2,700 00	9,000 00
Jan. 1, 1855,	Dec.9,15,16,"	7,500 00	50	1,500 00	9,000 00
July 1, 1855,	June 15, 1855	11,700 00	179	5,370 00	17,070 00
Jan. 1, 1856,	" 1856	20,070 00			20,070 00
July 1, 1856,	" "	23,070 00			23,070 00
Jan. 1, 1857,	April 9, 1857	28,320 00			28,320 00
July 1, 1857,	Aug.21, 1857	34,170 00	150	4,500 00	38,670 00
Jan. 1, 1858,	June 1, 1858	40,770 00			40,770 00
July 1, 1858,	July " "	48,060 00			48,060 00

[C.]

INTEREST ACCOUNT OF EAST TENNESSEE & GEORGIA RAILROAD COMPANY.

Bonds.	When Coupons due.	When coupons paid.	Amt Semi-annual Int.
350	July 1, 1850,	July 1, 1850,	$10,500
"	January 1, 1851,	January 1, 1851,	10,500
"	July 1, "	July 1, "	10,500
"	January 1, 1852,	January 1, 1852,	10,500
"	July 1, "	July 1, "	10,500
"	January 1, 1853,	January 1, 1853,	10,500
"	July 1, "	July 1, "	10,500
20			
370	January 1; 1854,	January 1, 1854,	11,100
130			
500	July 1, "	July 1, "	15,000
40			
540	January 1, 1855,	January 1, 1855,	16,200
330			
870	July 1, "	July 1, "	26,100
"	January 1. 1856,	January 1, 1856,	26,100
"	July 1, "	July 1, "	26,100
"	January 1, 1857,	January 1, 1857,	26,100
"	July 1, "	July 1, "	26,100
"	January 1, 1858,	January 1, 1858,	26,100
100			
970	July 1, "	July 1, "	29,100

[D.]

INTEREST PAID BY BANK OF TENNESSEE, FOR THE EAST TENN. & VA. R. R. COMPANY.

When due.	When paid.	In Cash.	No. coupons.	Amount coupons.	Total interest paid by Bank.
Jan. 1, 1853,	Jan. 1, 1853	$840			$840
July 1, 1853,	Sept. 5, 1853	10,500			10,500
Jan. 1, 1854,	Dec. 15, 1854	11,100	32	960	
July 1, 1854,	June 19, 1854	15,000			15,000
Jan. 1, 1855,	May 7, 1855	16,160			16,160
July 1, 1855,	Oct. 27, 1855	26,100			26,100
Jan. 1, 1856,	June 3, 1856	26,100			26,100
July 1, 1856,	June 17, 1856	26,100			26,100
Jan. 1, 1857,	April 9, 1857	26,100			26,100
July 1, 1857,	Aug. 21, 1857	26,100			26,100
Jan. 1, 1858,	June 1, 1858	26,100			29,100
July 1, 1858,	July 1, 1858	29,100			29,100

[C.]

INTEREST ACCOUNT OF MEMPHIS AND CHARLESTON RAILROAD COMPANY.

Bonds.	When Coupons due.	When Coupons paid.	Amt Semi-Annual Int.
240	January 1, 1853.	January 1, 1853.	$7,200
160			
400	July 1, 1853.	July 1, 1853.	12,000
400	January 1, 1854.	January 1, 1854.	12,000
400	July 1, 1854.	July 1, 1854.	12,000
400	January 1, 1855.	January 1, 1855.	12,000
200			
600	July 1, 1855.	July 1, 1855.	18,000
40			
100			
740	January 1, 1856.	January 1, 1856.	22,200
155			
895	July 1, 1856.	July 1, 1856.	26,850
205			
1100	January 1, 1857.	January 1, 1857.	33,000
1100	July 1, 1857.	July 1, 1857.	33,000
1100	January 1, 1858.	January 1, 1858.	33,000
1100	July 1, 1858.	July 1, 1858.	33,000

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR MEMPHIS AND CHARLESTON RAILROAD COMPANY.

When due.	When paid.	In cash.	No. Coupons.	Amount coupons.	Total interest paid by Bank.
Jan. 1, 1853	May 31, 1853	$7,200			$7,200
July 1, 1853	Sept. 5, 1853	12,000			12,000
Jan. 1, 1854	Dec. 10, 1853	12,000			12,000
July 1, 1854	June 5, 1853	12,000			12,000
Jan. 1, 1855	Dec. 14, 1854	12.000			12,000
July 1, 1855	June 15, 1855	17,000	30	900	18,000
Jan. 1, 1856	June 3, 1856	22,200			22,200
July 1, 1856	June 14, 1866	26,850			26,850
Jan. 1, 1857	April 9, 1857	33,000			33,000
July 1, 1857	Aug. 21, 1857	33,000			33,000
Jan. 1, 1858	June 1, 1858	33,000			33,000

[C.]

INTEREST ACCOUNT OF MEMPHIS AND OHIO RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
	Jan. 1, 1856	Jan. 1, 1856	$13,200
440			
190			
	July 1, 1856	July 1, 1856	18,900
630	Jan. 1, 1857	Jan. 1, 1857	18,900
630			
40			
670	July 1, 1857	July 1, 1857	20,100
670	Jan. 1, 1858	Jan. 1, 1858	20,100
670	July 1, 1858	July 1, 1858	20,100

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE MEMPHIS AND OHIO RAILROAD COMPANY.

When due.	When paid.	In cash.	No. coupons.	Amount coupons.	Total interest paid by Bank.
Jan. 1, 1856	June 3, 1856	$13,200			$13,200
July 1, 1856	June 17, 1856	18,900			18,900
Jan. 1, 1857	April 9, 1857	18,900			18,900
July 1, 1857	Aug. 21, 1857	20,100			20,100
Jan. 1, 1858	June 1, 1858	20,100			20,100
July 1, 1858	July 1, 1858	20,100			20,100

[C.]

INTEREST ACCOUNT OF TENNESSEE AND ALABAMA RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
300	Jan. 1, 1855,	Jan. 1, 1855,	$9,000
"	July 1, 1855,	July 1, 1855,	9,000
"	Jan. 1, 1856,	Jan. 1, 1856,	9,000
"	July 1, 1856,	July 1, 1856,	9,000
"	Jan. 1, 1857,	Jan. 1, 1857,	9,000
"	July 1, 1857,	July 1, 1857,	9,000
"	Jan. 1, 1858,	Jan. 1, 1858,	9,000
471			
771	July 1, 1858,	July 1, 1858,	23,230

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE TENNESSEE AND ALABAMA RAILROAD COMPANY.

When due.	When paid.	In cash.	No. coupons.	Amount coupons.	Total interest paid by Bank.
Jan. 1, 1855		$4,039	168	$5,040	$9,079 20
July 1, 1855	June 14, 1855,	4,770	141	4,230	9,000 00
Jan. 1, 1856	June 3, 1856,	9,000			9,000 00
July 1, 1856	June 12, 1856,	9,000			9,000 00
Jan. 1, 1857	April 9, 1857,	9,000			9,000 00
July 1, 1857	Aug. 21, 1857,	9,000			9,000 00
Jan. 1, 1858	June 1, 1858,	9,000			9,000 00
July 1, 1858	July 1, 1858,	23,130			23,130 00

[C.]

INTEREST ACCOUNT OF McMINNVILLE AND MANCHESTER RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
300	Jan. 1, 1856,	Jan. 1, 1856,	$9,000
"	July 1, 1856,	July 1, 1856,	9,000
72			
372	Jan. 1, 1857,	Jan. 1, 1857,	11,160
"	July 1, 1857,	July 1, 1857,	11,160
"	Jan. 1, 1858,	Jan. 1, 1858,	11,160
"	July 1, 1858,	July 1, 1858,	11,160

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE McMINNVILLE AND MANCHESTER RAILROAD COMPANY.

When due.	When paid.	In cash.	No. coupons.	Amount coupons.	Total interest paid
Jan. 1, 1856	June 3, 1856	$ 9,000			$ 9,000
July 1, 1856	Oct. 2, 1856	9,000			9,000
Jan. 1, 1857	April 9, 1857	11,160			11,160
July 1, 1857	Aug. 21, 1857	11,160			11,160
Jan. 1, 1858	June 1, 1858	11,160			11,160
July 1, 1858	July 1, 1858	11,160			11,160

[C.]

INTEREST ACCOUNT OF MISSISSIPPI CENTRAL AND TENNESSEE RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
300	July 1, 1856,	July 1, 1856,	$ 9,000
244			
555	Jan. 1, 1857,	Jan. 1, 1857,	16,320
"	July 1, 1857,	July 1, 1857,	16,320
30			
574	Jan. 1, 1858,	Jan. 1, 1858,	17,220
"	July 1, 1858,	July 1, 1858,	17,220

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR MISSISSIPPI CENTRAL AND TENNESSEE RAILROAD COMPANY.

When due.	When paid.	In cash.	No. coupons.	Amount coupons.	Total interest.
July 1, 1856		$ 5,460	112	3,360	$ 8,820
Jan. 1, 1857		10,260	202	6,060	16,320
July 1, 1857		16,320			16,320
Jan. 1, 1858		17,220			17,220
July 1, 1858		14,189			14,189

This Railroad Company is in arrear for July interest 1858, of $3,031, and has been reported to the Governor of the State.

[C.]

INTEREST ACCOUNT OF MISSISSIPPI AND TENNESSEE RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
98	Jan. 1, 1856	Jan 1, 1856	$2,940
98	July 1, 1856	July 1, 1856	2,940
98	Jan. 1, 1857	Jan. 1, 1857	2,940
98	July 1, 1857	July 1, 1857	2,940
98	Jan. 1, 1858	Jan. 1, 1858	2,940

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE MISSISSIPPI AND TENNESSEE RAILROAD COMPANY.

When due.	When paid.	In cash.	No. coupons.	Amount coupons.	Total interest paid
Jan. 1, 1856	June 3, 1856	$2,940			$2,940
July 1, 1856	June 12, 1856	2,940			2,940
Jan. 1, 1857	April 9, 1857	2,940			2,940
July 1, 1857	Aug. 21, 1857	2,940			2,940
Jan. 1, 1858	June 1, 1858	2,940			2,940

[C.]

INTEREST ACCOUNT OF MOBILE AND OHIO RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
336 100 coupons cut off.	July 1, 1856	July 1, 1856	$10,080
436	Jan. 1, 1857	Jan. 1, 1857	10,080
"	July 1, 1857	July 1, 1857	13,080
338			
774	Jan. 1, 1858	Jan. 1, 1858	23,220
"	July 1, 1858	July 1, 1858	23,220

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE MOBILE AND OHIO RAILROAD COMPANY.

When due.	When paid.	In cash.	No. coupons.	Amount coupons.	Total interest paid
July 1, 1856			336	10,080	$10,080
Jan. 1, 1857	April 9, 1857	$10,080			10,080
July 1, 1857	Aug. 21, 1857	13,080			13,080
Jan. 1, 1858	June 1, 1858	13,980	307	9,210	
Jan. 1, 1858	June 1, 1858	30			23,220
July 1, 1858	July 1, 1858	23,220			23,220

[C.]

INTEREST ACCOUNT OF MEMPHIS AND LITTLE ROCK RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
119	July 1, 1856	July 1, 1856	$3,570
119	Jan. 1, 1857	Jan. 1, 1857	3,570
183			
302	July 1, 1857	July 1, 1857	9,060
48			
350	Jan. 1, 1858	Jan. 1, 1858	10,500
350	July 1, 1858	July 1, 1858	10,500

This interest was not paid by the Bank ; the Road paid its own interest.

[C.]

INTEREST ACCOUNT OF EDGEFIELD AND KENTUCKY AND LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

(Cumberland River Bridge Aid.)

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
40	July 1, 1857	July 1, 1857	$1,200
60			
100	Jan. 1, 1858	Jan. 1, 1858	3,000
40			
140	July 1, 1858	Jan. 1, 1858	4,200

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR EDGEFIELD AND KENTUCKY AND LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

When due.	When paid.	In cash.	No. Coupons.	Amount coupons.	Total interest paid
July 1, 1857	Aug. 21, 1857	1,080	4	$1,210	$1,200
Jan. 1, 1858	June 1, 1858	3,000			3,000
July 1, 1858	July 1, 1858	4,200			4,200

[C.]

INTEREST ACCOUNT OF MEMPHIS AND CLARKSVILLE AND LOUISVILLE RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual interest.
20	July 1, 1858	July 1, 1858	$600

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE MEMPHIS AND CLARKSVILLE AND LOUISVILLE RAILROAD COMPANY.

When due.	When paid.	In cash.	No. Coupons.	Amount coupons.	Total interest.
July 1, 1858	July 1, 1858	$600			$600

[C.]

INTEREST ACCOUNT OF WINCHESTER AND ALABAMA RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual interest.
14	July 1, 1858	July 1, 1858	$420

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE WINCHESTER AND ALABAMA RAILROAD COMPANY.

When due.	When paid.	In cash.	Amount Coupons.	No. Coupons.	Total interest paid.
July 1, 1858	July 1, 1858	$420			$420

[C.]

INTEREST ACCOUNT LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
300	July 1, 1858		$9,000

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE LOUISVILLE RAILROAD COMPANY.

When due.	When paid.	In cash.	No. coupons.	Amount coupons.	Total interest paid
July 1, 1858	July 1, 1858	$9,000			$9,000

[C.]

INTEREST ACCOUNT OF EDGEFIELD AND KENTUCKY RAILROAD COMPANY.

Bonds.	Coupons when due.	When paid.	Amt. semi-annual int.
300	July 1, 1858 (200 cut off.)	July 1, 1858 (100 paid.)	$3,000

[D.]

INTEREST PAID BY BANK OF TENNESSEE FOR THE EDGEFIELD AND KENTUCKY RAILROAD COMPANY.

When due.	When paid.	In cash.	No. coupons.	Amount coupons.	Total interest paid
July 1, 1858	July 1, 1858	$3,000			$3,000

The Louisville and Nashville, the Edgefield and Kentucky and Edgefield, Kentucky and Louisville and Nashville (Bridge aid) Companies, paid interest July 1, 1858, $16,350.

The foregoing tables exhibit the exact amount of interest due from the various Railroad Companies, and the amounts paid by said companies to the Bank of Tennessee; and also the amount paid by the Bank.

All of which is respectfully submitted,

J. D. GOODPASTURE,
A. F. GOFF,
TAZ. W. NEWMAN,
MICHAEL VAUGHN,
JAS. J. TURNER.

INDEX.

A

Actions against the State, how brought 442
" " " all laws authorizing repealed 442
Agricultural Bureau, act to establish 251
Atlantic, Tennessee and Ohio Railroad Company, State aid to 322
Attorney General to be directed to sue delinquent railroad companies 56
Attorney General directed to bring suit against receivers 403
Attorney General directed to bring suit against railroad companies for bonds fraudulently issued to them 419

B

Bank of Tennessee, act to establish, etc 7
" " act supplementary to above 29
" " act for collection of demands due it. 44
" " act authorizing it to draw on State Treasurer .. 50
" " act to relieve, etc 120
" " extract from Gov. Johnson's Message. 278
Blackburn, Comptroller, report of 329–35
Board of Internal Improvements, act to establish 1
Board of Internal Improvement, to compromise with M. M & W. T. P. Co 49
Board of Finance created 343
Bonds of the State, act authorizing the purchase of those outstanding 120
Bonds of the State, Governor to issue to E. T. & Va. R. R. Co., to build bridges 131
Bonds of the State, to be numbered, etc., under act of February 21, 1852 235
Bonds of the State, how issued to various railroad companies 239
Bonds of the State, to be issued upon completion of sections of 10 instead of 20 miles 243
Bonds of the State to be issued upon the grading of 10 mile sections 249
Bonds of the State to be issued to State Agricultural Bureau 253
Bonds of the State, provisions of the Code applicable to their issuance to railroad companies 269

Bonds of the State, surplus, if any, may be applied to construction of road, etc.. 278
Bonds of the State and coupons, report upon by Comptroller Dunlap.. 283
Bonds of the State to railroad companies, sinking fund on, to be equalized and invested.. 295
Bonds of the State, interest only payable to party who was owner April 15, 1861.. 302
Bonds of the State to issue in place of past due bonds and coupons. 315
Bond of the State, Governor to execute, for purchase of cars, etc., from the U. S. Military Department, etc.................... 321
Bonds of the State, Governor to issue to various railroad companies. 335
Bonds of the State, railroad companies to pay indebtedness due the State in.. 369
Bonds of the State, railroad companies to pay indebtedness due the State in, without regard to series or number.................. 381
Bonds of the State, none to be issued to companies in arrears or that sold State bonds under par.................... 400
Bonds, receivers to give, etc.. 339
Bonds, may be issued by railroad companies for amount of their debt paid to the State.. 369
Bonds, railroad companies authorized to issue after consolidation..428–41–43
Bonds, first mortgage, purchasers of railroads authorized to issue... 434
Bonds, Minnesota Railroad State.. 496
Brown, Gov. N. S., extract from Message of.................... 111
Brown, Gov. Jno. C., extract from Message of.................... 435
Brownlow, Gov. Wm. G., extract from Message of.................... 328

C

Campbell, Gov. Wm. B., Message of.................... 125
Cancellation of State bonds.................... 430
Central Southern Railroad Company, State aid to............238–265
Chattanooga, Blue Springs and Cleveland Railroad Company, charter of.................... 237
Chattanooga, H. G. & C. Railroad Company, State aid to........ 195
Charleston and Savannah Railroad Company, act to aid........... 504
Cincinnati, Cumberland Gap and Charleston Railroad Company, State aid to....................................239–324–335
Cincinnati, Cumberland Gap and Charleston Railroad Company, suit to be brought for bonds fraudulently issued to......... ... 419
Code, provisions of applicable to State aid to Internal Improvement Companies.................... 269
Code, sec. 1101, amended, making appointment of receivers discretionary.................... 302
Code, sec, 1102, amended.................... 384

Commissioners, act to appoint, to investigate Internal Improvement Companies.......... 54
Commissioners, road, act defining duties of.......... 267
Commissioners, road, abolished.......... 343
Commissioners of sinking fund, when to cancel bonds.......... 295
Commissioners, appointed to settle with L. & N. R. R. Co.......... 310
Commissioners, settlement of, with L. & N. R. R. Co., made and reported.......... 311
Commissioners appointed to sell State's interest in delinquent railroads.......... 395
Commissioners appointed to sell State's interest in delinquent railroads, amendment to foregoing act.......... 424
Commissioners appointed to lease delinquent railroads.......... 401
Commissioners appointed to sell delinquent railroads, report of.... 405
Committee, Internal Improvement, report of.......... 275
Committee appointed to investigate condition of sinking fund..... 314
Compromise with M., M. & W. T. P. Co. by board of Internal Improvements.......... 49
Comptroller, Internal Improvement books transferred to..... 46
Comptroller, duties of prescribed by Code.......... 235
Comptroller to keep account of bonds issued to each company, etc.......... 297
Comptroller, report on office, by Joint Select Committee of '57-'8.. 529
Consolidation of railroad companies, act authorizing......410, 413 415
Constitution of 1834, to encourage Internal Improvements........ 4
" art. 2. sec. 33, enforced.......... 400
" of 1834, art. 11, sec. 7.......... 439
" of 1834, art. 1, sec. 17.......... 440
" of Minnesota.......... 491

D

Delinquent railroad companies, State's interest in authorized to be sold.......... 395
Delinquent railroad companies, State's interest in authorized to be sold, act amended.......... 413
Delinquent railroads, commissioners appointed to lease......... ... 401
Delinquent railroad companies, Attorney-General to sue.......... 57
Directors, State, powers and duties of... .... 340, 390, 395
Directors, number regulated by statute.......... 368
Dunlap, J. T., Comptroller, report on State Debt.......... 280
" " " report on bonds and coupons.......... 283
" " " report on sinking fund for railroad companies.......... 286
Dunlap, J. T., Comptroller, report on defaulting railroad companies.......... 300

E

East Tennessee and Georgia Railroad Company, Governor to endorse bonds of.......... 61
East Tennessee and Georgia Railroad Company, repeal of above act, and authorizing issuance of State bonds to.......... 64
East Tennessee and Georgia Railroad Company, amendment to last act.......... 236
East Tennessee and Georgia Railroad Company, State aid to...... 195
East Tennessee and Georgia Railroad Company, to aid completion of.......... 188
East Tennessee and Georgia Railroad Company, State aid to branch road.......... 256
East Tennessee and Georgia Railroad Company, additional State bonds to.......... 319
East Tennessee and Virginia Railroad Company, State aid to..........131, 188, 319, 323, 338
East Tennessee and Western North Carolina Railroad Company, State aid to..........323, 337
East Tennessee and Western North Carolina Railroad Company, suit to be brought against for bonds fraudulently issued to..... 420
Edgefield and Kentucky R. R. Co., State aid to. 239, 266, 318, 321, 337
Edgefield and Kentucky Railroad Company, Governor to execute a bond to buy cars, etc., from U. S.......... 321
Edgefield and Kentucky Railroad Company, suit to be brought against for bonds fraudulently issued to.......... 420
Education, act to establish a system of, etc.......... 7
Education, act supplementary to above.......... 29
Evansville, H. & N. R. R. Co., to execute bond to State.......... 337

F

Fair Grounds, State aid to.......... 251
Finance, board of. created.......... 343
Fisher, John A., letter of, to Comptroller.......... 303
Franchises of railroads, act declaring State's lien upon.......... 315
Fraud, statute of.......... 444
Funding of State debt, act for.......... 392
Funding of State debt, amendment to above act.......... 405

H

Hannibal and St. Joseph Railroad Company, act of Missouuri, authorizing construction of.......... 445
Harris, Gov., Message of, upon liabilities of the State.......... 290
Harris, Gov., Message of, upon suspension of sinking fund act.... 298

I

Interest, railroad companies to pay fifteen days before due......... 367

Internal Improvement, act to establish board of.................. 1

Internal Improvement, provision to encourage, in Constitution of 1834.. 5

Internal Improvements, act to encourage,....................... 5

“ “ act to raise funds for, etc................ 7

“ “ act supplementary to above.............. 29

Internal Improvement, act repealing all acts granting State aid to... 35

Internal Improvement, act for books of, to be transferred from Secretary of State to Comptroller.............................. 46

Internal Improvement, board of, to compromise with M., M. & W. T. P. Co... 49

Internal Improvement, act for collection of State's dividend in.... 51

Internal Improvement Companies, appointment of commissioners to investigate.. 54

Internal Improvement, act of February 11, 1852, amended......... 63

Internal Improvement, bill to encourage, showing entries on Journals.. 68

Internal Improvement, Message upon, of Gov. N. S. Brown...... 111

“ “ Message upon, of Gov. Wm. Trousdale.... 116

“ “ Message upon, of Gov. Wm. Trousdale.... 122

“ “ Message upon, of Gov. Wm. Campbell.... 125

Internal Improvement, MS. copy of bill of January 15, 1852, to establish a system of....................................... 138

Internal Improvement, act of February 11, 1852, to establish a system of.. 188

Internal Improvement, MS. copy of foregoing, showing history of its passage.. 204

Internal Improvement, amendment to foregoing.................. 238

Internal Improvement, amendment to fourth section of Internal Improvement act, changing twenty to ten miles................ 243

Internal Improvement, amendment as to bridge bonds............ 243

Internal Improvement, amendment as to M., C. & L., and other railroad companies....................................... 244

Internal Improvement, amendment of acts of '52 and '54......... 248

Internal Improvement, act explanatory of sixteenth section of act of February 11, 1852................................... 250

Internal Improvement, provisions of Code, as to................ 269

“ “ Committee of, report........................ 275

Internal Improvement, act of February 11, 1852, amended.................................315, 329, 335, 367

Internal Improvement, act of January, 1866, amended........... 322

“ “ act of November 23, 1865, amended...... 325

“ “ repeal of all laws granting State aid to.... 376

J

Johnson, Gov. Andrew, Message of.......... 278
Journals of Legislature, copy of entries showing history of passage of act of January 15, 1852.......... 138
Journals of Legislature, copy of entries showing history of passage of act of February 11, 1852.......... 204
Journal of Senate, copy of entries showing history of Senate bill No. 186.......... 68

K

Knoxville and Charleston Railroad Company, State aid to. 239, 323, 337
Knoxville and Charleston Railroad Company, suit to be brought to recover bonds fraudulently issued to.......... 419
Rnoxville and Kentucky Railroad Company, State aid to.......... 239, 319, 323, 335
Knoxville and Kentucky Railroad Company, suit to be brought to recover bonds fraudulently issued to.......... 419

L

LaGrange and Memphis Railroad Company, transfer of State's interest in, to M. & C. R. R. Co.......... 58, 59
Law of the land, constitutional provision.......... 440
Liabilities of the State, Gov. Harris, Message upon.......... 295
Louisville and Nashville Railroad Company, State aid to.......... 195
Louisville and Nashville Railroad Company, extension of time to, to receive State aid.......... 246
Louisville and Nashville Railroad Company, commissioners appointed by the State to settle with.......... 310
Louisville and Nashville Railroad Company, settlement with, made and reported.......... 311

M.

Manchester and McMinnville Railroad Company, State aid to.......... 318
McMinnville and Manchester Railroad Company, suit to be brought for bonds fraudulently issued to.......... 420
McMinnville and Manchester Railroad Company, State aid to.......... 195
McMinnville and Winchester Railroad Company, State aid to.......... 262
Memphis and Charleston Railroad Company, act to incorporate.......... 57
Memphis and Charleston Railroad Company, State aid to.......... 195, 250
Memphis and Charleston Railroad Company, authorized to issue its second mortgage bonds.......... 325
Memphis, Clarksville and Louisville Railroad Company, State aid to.......... 195
Memphis, Clarksville and Louisville Railroad Company, State aid to, time extended two years.......... 245

Memphis, Clarksville and Louisville Railroad Company, bonds to, for bridges.......... 267
Memphis, Clarksville and Louisville Railroad Company, Governor to execute bond to buy cars, etc., from U. S.......... 321
Memphis, Clarksville and Louisville Railroad Company, suit to be brought for bonds fraudulently issued to.......... 420
Memphis and LaGrange Railroad Company, sale of interest in to M. & C. R. R. Co..........58, 59
Memphis and Little Rock Railroad Company, State to guarantee bonds of city of Memphis to.......... 261
Memphis and Ohio Railroad Company, consolidation with M. C. & L. R. R. Co.......... 245
Memphis and Ohio Railroad Company, State aid to.......259, 318, 322
Message of Gov. N. S. Brown.......... 111
" " Jno. C. Brown.......... 435
" " Wm. G. Brownlow.......... 328
" " Wm. B. Campbell.......... 125
" " I. G. Harris..........290–298
" " Wm. Trousdale..........116–122
Mineral Home Railroad Company, suit to be brought for bonds fraudulently issued to.......... 420
Minnesota, act of, in aid of railroads.......... 451
Minnesota and Pacific Railroad Company, act of Minnesota in aid of.......... 451
Minnesota, Constitution of.......... 491
Minnesota railroad State bond, copy of.......... 496
Mississippi Central Railroad Company, State aid to.......319–326-336
Mississippi Central and Tennessee Railroad Company, State aid to..........239-244
Mississippi and Tennessee Railroad Company, State aid to..319-322-336
Missouri, act of, authorizing construction of Pacific and other railroads.......... 445
Mobile and Ohio Railroad Company, State aid to..........195-259
Mortgage, registration of, under the Code.......... 439
Mortgage of Southern Minnesota Railroad Company, copy of..... 497

N.

Nashville and Chattanooga Railroad Company, Governor authorized to endorse bonds of..........59-64
Nashville and Chattanooga Railroad Company, State aid for branch to E. T. & Ga. Railroad.......... 256
Nashville and Chattanooga Railroad Company, State aid to, for Jasper branch.......... 320
Nashville and Cincinnati Railroad Company, State aid to.......... 195
Nashville and Decatur Railroad Company, State aid to.......... 336
Nashville and Decatur Railroad Company relieved from paying sinking fund till January 1, 1872.......... 392

Nashville and Memphis Railroad Company, State aid to.......... 195
Nashville and Northwestern Railroad Company, State aid to...... ....195, 258, 319, 323, 335, 337
Nashville and Northwestern Railroad Company, lease to N. & C. R. R. Co. confirmed.. 377
Nashville and Southern Railroad Company, State aid to.......... 195

P.

Pacific Railroad, act of Missouri, authorizing construction of..... 445
Profits, etc., of railroads, State to have lien on.................. 319

R.

Receivers to be appointed upon failure to pay interest........... 193
Receivers' act for relief of... 301
" appointment of, discretionary in Governor............ 302
" to give bond, etc.. 339
" change in appointment and duties of................ 374
" Attorney General directed to sue........................ 403
Register of bonds, Comptroller to keep........................ 235
Registration of itstruments under the Code..................... 439
Relief of railroad companies, act for............................ 301
Renewal of certain State bonds................................... 235
Repeal of all laws granting State aid to Internal Improvement companies..35, 376
Report of Comptroller Crozier...................................... 130
Report of Internal Improvement Committee..................... 275
" of Comptroller Dunlap................280, 283, 286, 300, 303
" of Comptroller Blackburn..........................329, 345
" of State railroad commissioners............................ 405
Report of Joint Select Committee of '57-'8 on Comptroller and Secretary of State.. 529
Retirement of State railroad debt.................................. 426
Rogersville and Jefferson Railroad Company, State aid to....... 319
Rogersville and Jefferson Railroad Company, suit to be brought to recover bonds fraudulently issued to.......................... 419
Road commissioners, act defining duties of..................... 267
Road commissioners, office abolished............................. 343
Root River Valley and Southern Minnesota Railroad, change of name.. 490

S.

Secretary of State, Internal Improvement books transferred from. 46
Secretary of State, duties of, prescribed by Code................ 236
Secretary of State, report of committee of '57-8 on office of....... 529
Sections of 20 miles (after 1st sec.) to be completed before bond issue... 193

Sections of 10 miles, etc. (by amendment,) only to be completed.. 243
Sections of 10 miles, etc. (by amendment,) only to be graded..... 249
Senate bill No. 186, MS. copy with entries on Journals.......... 68
Settlement by commissioners with L. & N. R. R. Co., made and reported.. 311
Sinking fund of ½ per cent. to be set aside to redeem bonds, by railroad companies.. 193
Sinking fund of 2 per cent. to be set aside to redeem bonds, by railroad companies.. 258
Sinking fund for railroad bonds, report upon by Comptroller Dunlap.. 286
Sinking fund for railroad bonds to be equalized and invested..... 295
Sinking fund of 2½ per cent. to be paid after January 1, 1860.... 296
Sinking fund, when paid to be a release, *pro tanto*, to the company, upon debt due this State.. 296
Sinking fund if paid in cash to be invested in bonds of same character.. 296
Sinking fund, Message of Gov. Harris upon suspension of........ 298
Sinking fund of 2½ per cent., payment of suspended till January 1, 1867.. 316
Sinking fund of 4 per cent. on bonds thereafter issued........... 319
Sinking fund, N. & D. R. R. Co, relieved from payment till January 1 1872.. 392
Sinking fund, time of paying suspended till January 1, 1870..... 325
Sinking fund, time of paying suspended till January 1, 1872, as to solvent companies, etc.. 399
South Carolina, act of, to aid in construction of Charleston and Savannah Railroad.. 504
Southern Minnesota Railroad Company Mortgage, copy of........ 497
Southwestern Railroad Company, State aid to.......195, 263, 320, 336
Southwestern Railroad Company, suit to be brought against for bonds fraudulently obtained.. 420
Suit, Attorney General to bring against delinquent railroad companies.. 56
Suit to be brought against receivers.. 403
Suit to be brought against companies fraudulently obtaining bonds 420
State Bank, act to establish.. 7
" act supplemental to above.. 29
" act for collection of demands due.. 45
State of Tennessee. how sued, Constitutional provision as to....... 441
" " how sued, statutory provision as to............ 442
" " right to sue withdrawn.. 442
State debt, report of Comptroller Dunlap upon.. 280
State debt, railroad companies may pay in State bonds............ 370
State debt, railroad companies may pay in State bonds without regard to series or numbers.. 387
State debt, act for the payment of.. 387

"   3d sec. of above repealed in part.................... 430
"   act for the funding of.............................. 376
"   amendment to above.................................. 405
State debt incurred by railroad bonds, act to encourage its settlement.......... 426
State s dividends in Internal Improvements, act for collection of.. 51
State's interest in delinquent railroad companies authorized to be sold.......... 395
State's interest in delinquent railroad companies, amendment to above.......... 413
State's interest in delinquent railroad companies, amendment to above.......... 424
State railroad commissioners, report of.......... 405
State to buy certain railroads.......... 423

T

Tennessee and Alabama Railroad Company, State aid to.......... 264
Tennessee and Pacific Railroad Company, State aid to.......... 337
Tennessee and Pacific Railroad Company, suit to be brought against for bonds fraudulently issued to.......... 420
Tennessee, West, and Cha. Railroad Company, State aid to...... 239
Treasurer of the State, Bank of Tennessee to draw on, when...... 50
Trousdale, Gov. Wm., Message of..........116-12

U

Union Pacific Railroad Company, act to charter.......... 508
Union and Planters' Bank, act to sell the stock of.......... 120
U. S. Military Railroad Department, purchase of cars, etc., from.. 321
U. S., act of July 1, 1862, to charter the U. & P. R. R. Co....... 508

W

Winchester and Alabama Railroad Company, State aid to..........195-259-264-319-323-335
Winchester and Alabama Railroad Company, suit to be brought against for bonds fraudulently issued to.......... 420

2359.

STATEMENT OF BONDS

Issued by the State of Tennessee, arranged according to series, showing the number of bonds issued, for what purpose, when issued, when due, their present condition, etc., each bond being for $1,000, except where specially noted otherwise.

500 BONDS; INTEREST, 5 PER CENT.; ISSUED UNDER ACT OF 1832; MATURED AFTER 15, 20, 25 AND 30 YEARS.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
Jan. 1, 1833	125	Union Bank of Tennessee	1 to 125	....	....	125	.....	....	....	....
" "	125	" " "	1 to 125	....	....	125	.....	....	....	....
" "	125	" " "	1 to 125	....	....	125	.....	....	....	....
" "	125	" " "	1 to 125	....	....	....	.....	125	....	....
....	500	....	....	....	....	375	.....	125	....	....

SPECIAL ISSUE OF 67 BONDS; 5¼ PER CENT.; MATURED AFTER 25 YEARS; ACT 1836.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
July 25, 1836	66	Nashville, Murfreesboro & Shelbyville T. P. Co.	1 to 66	....	....	66	.....	....	....	....
" " "	1	" " " "	67 for $666⅔	....	....	1	.....	....	....	....
....	67	....	....	....	....	67	.....	....	....	....

SPECIAL ISSUE OF 31 BONDS; 5¼ PER CENT., UNDER ACT 1835-6; MATURED AFTER 25 YEARS.

Nov. 1, 1837	18	Gallatin Turnpike Company		1 to 18			18				
Mar. 31, 1838	12	" " "		19 to 30			12				
" " "	1	" " "		31 for $500			1				
	31						31				

SPECIAL ISSUE OF 40 BONDS; 5¼ PER CENT., UNDER ACT 1835-6; MATURED AFTER 25 YEARS.

Oct. 5, 1837	10	Lebanon and Nashville T. P. Co.		1 to 10			10				
Nov., "	2	" " " "		11 to 12			2				
Jan., 1838	4	" " " "		13 to 16			4				
Feb., "	4	" " " "		17 to 20			4				
May, "	4	" " " "		21 to 24			2		2		
July, "	4	" " " "		25 to 28			3	1			
Aug., "	4	" " " "		29 to 32			4				
Oct., "	4	" " " "		33 to 36			4				
Nov., "	4	" " " "		37 to 40			3		1		
	40						36	1	3		

SPECIAL ISSUE OF 109 BONDS; 5¼ PER CENT., UNDER ACT OF 1835-36; MATURED AFTER 25 YEARS.

Oct., 1837	30	Lagrange and Memphis R. R. Co.		1 to 30			30				
" "	1	" " " "		31 for $1,250			1				
" 1838	30	" " " "		32 to 61			27		3		
" "	1	" " " "		62 for $1,250			1				
Mar., 1839	30	" " " "		63 to 92			20		10		
" "	1	" " " "		93 for $1,250			1				
Sept., "	15	" " " "		94 to 108			14		1		
" "	1	" " " "	$2,000 each	109 for $1,250			1				
	1	" " " "		210 in lieu.			1				
	110						96		14		

251b2

STATEMENT OF BONDS.—*Continued.*

SPECIAL ISSSUE OF 2,500 BONDS; 6 PER CENT., UNDER ACT OF 1838; MATURED AFTER 30 YEARS.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
May 7, 1838	1,000	Bank of Tennessee	1 to 1000			786	191	23		
Jnly 2, "	1,500	" " "	1001 to 2500			1500				
	2500					2286	191	23		

Nos. 1001 to 1100 returned and cancelled February 5, 1840. } Under Act of 1840.
Nos. 1101 to 2500 " " " April 27, 1840. }

300 Bonds were issued under Act of 1838 to the Union Bank of Tennessee for improvement of Rivers in Tennessee. They were numbered from 1 to 300; 5 per cent.: maturing 30 years after date. They were cancelled without being used.

SERIES "A."

FIVE PER CENT. BONDS ISSUED UNDER ACT OF 1838; MATURE AFTER 30 YEARS.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
Nov. 3, 1838	1	Chambers and Purdy T. P. Co	1			1				
" " "	97	Hiwasseee Railroad Co.	2 to 98			70	19	8		
" " "	22	Franklin and Columbia T. P. Co.	99 to 120			13	7	2		
" " "	45	Columbia Central T. P. Co.	121 to 165			34	6	5		
" " "	15	Nashville and Charlotte T. P. Co	166 to 180			13	2			
" 5, "	16	Fayetteville and Shelbyville T. P. Co.	181 to 196			16				
" 24, "	41	Gallatin T. P. Co	197 to 237			37	3	1		
" 30, "	24	Columbia Central T. P. Co.	238 to 361			23		1		

Jan. 3,	1839	26	Harpeth T. P. Co	262 to	287			10	9	7	
“ 4,	“	20	Cumberland and Stones' River T. P. Co	288 to	307			11	5	4	
“ 5,	“	30	Lebanon and Nashville T. P. Co	308 to	337			13	13	4	
“ 7,	“	2	Chambers and Purdy T. P. Co	338 to	339				2		
“ 7,	“	6	Jefferson T. P. Co	340 to	345			1	5		
“ 9,	“	9	Nashville and Charlotte T. P. Co	346 to	354			1	7	1	
“ 21,	“	32	Louisville, Cincinnati and Charleston R. R. Co	355 to	386			32			
Feb. 1,	“	3	Chambers and Purdy T. P. Co	387 to	389				3		
M'ch 2,	“	7	Pelham and Jasper T. P. Co	390 to	396			3	3	1	
“ 8,	“	5	Clarksville and Russellville T. P. Co	397 to	401			3		2	
“ 22,	“	27	Gallatin T. P. Co	402 to	428			12	9	6	
“ 25,	“	7	Forked Deer T. P. Co	429 to	435			7			
May 3,	“	12	Columbia, Pulaski and Elkton T. P. Co	436 to	447			7	3	2	
“ 14,	“	1	Chambers and Purdy T. P. Co	448				1			
June 14,	“	6	Big Hatchie T. P. Co	449 to	454			4	1	1	
July 10,	“	1	Gallatin and Columbia T. P. Co	455				1			
Aug. 13,	“	10	Nolensville T. P. Co	456 to	465			5	3	2	
“ “	“	15	Ashport T. P. Co	466 to	480			10	5		
Sept. 10,	“	4	Nolensville T. P. Co	481 to	484			2	2		
“ “	“	14	Lebanon and Sparta T. P. Co	485 to	498			9	4	1	
“ “	“	3	Jefferson T. P. Co	499 to	501			1	2		
“ “	“	98	Hiwassee R. R. Co	502 to	599			38	46	14	
Nov. 5,	“	8	Big Hatchie T. P. Co	600 to	607			5	3		
“ 22,	“	9	Nashville and Kentucky T. P. Co	608 to	616			5	4		
Dec. 10,	“	10	Clarksville and Russellville T. P. Co	617 to	626			7	2	1	
Jan. 6,	1840	6	Nashville and Charlotte T. P. Co	627 to	632			2	3	1	
“ 18,	“	65	Hiwassee R. R. Co	633 to	697			16	23	26	
“ 24,	“	49	Franklin and Columbia T. P. Co	698 to	746			16	28	5	
June 24,	“	14	Nolensville T. P. Co	747 to	760			4	10		
“ “	“	3	Gallatin and Cumberland T. P. Co	761 to	763			1	2		
“ “	“	4	Nashville and Kentucky T. P. Co	764 to	767			1	3		
“ “	“	34	Columbia, Pulaski and Elkton T. P. Co	768 to	801			11	18	5	
Aug. 3,	“	11	Gallatin T. P. Co	802 to	812			1	9	1	
“ 11,	“	8	Clarksville and Russelville T. P. Co	813 to	820			2	6		
“ “	“	31	Lebanon and Sparta T. P. Co	821 to	851			9	21	1	
Nov. 5,	“	18	Lagrange and Memphis R. R. Co	852 to	869, 1 for $1,750			10	7	1	
“ 10,	“	20	Ashport T. P. Co	870 to	890			10	8	2	

25124

STATEMENT OF BONDS.—*Continued.*

When Issued.			No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
Nov.	16,	1840	10	Clarksville and Russellville T. P. Co	890 to 899			1	8	1		
"	20,	"	13	Nolensville T. P. Co	900 to 912			2	7	4		
Dec.	9,	"	15	Lebanon and Sparta T. P. Co	913 to 927			4	7	4		
Feb.	5,	1841	5	Lebanon and Sparta T. P. Co	928 to 932				5			
May	18,	"	15	Columbia, Pulaski and Elkton T. P. Co	933 to 947			2	5	5		
"	19,	"	3	Fulton T. P. Co	948 to 950				3			
"	"	"	37	LaGrange and Memphis R. R. Co	951 to 987, 1 for $1500			7	26	4		
"	20,	"	97	Hiwassie R. R. Co	988 to 1084			14	48	35		
June	3,	"	81	Columbia Central T. P. Co	1085 to 1165			25	48	8		
July	19,	"	22	Gallatin T. P. Co	1166 to 1187			5	13	4		
Aug.	20,	"	14	Columbia, Pulaski and Elkton T. P. Co	1188 to 1201			2	11	1		
Aug.	27,	"	13	Nashville and Kentucky T. P. Co	1202 to 1214			5	8			
Sept.	9,	"	27	Cumberland and Stones' River T. P. Co	1215 to 1241			1	26			
"	"	"	8	Nolensville T. P. Co	1242 to 1249			3	5			
"	"	"	4	Columbia, Pulaski and Elkton T. P. Co	1250 to 1253			1	3			
Oct.	29,	"	4	Clarksville and Russellville T. P. Co	1254 to 1257, 1 for $1500			1	3			
Nov.	10,	"	10	Lebanon and Sparta T. P. Co	1258 to 1267				10			
"	20,	"	27	Columbia, Pulaski and Elkton T. P. Co	1268 to 1294			6	15	6		
Dec.	21,	"	18	Lagrange and Memphis R. R. Co	1295 to 1312			12		6		
"	30,	"	12	Cumberland and Stones' River T. P. Co	1313 to 1324				11	1		
May	14,	1842	17	Lagrange and Memphis R. R. Co	1325 to 1341			7	5	5		
June	16,	"	9	Cumberland and Stones' River T. P. Co	1342 to 1350			2	3	4		
"	27,	"	3	Fulton T. P. Co	1351 to 1353				3			
Aug.	6,	"	8	Columbia, Pulaski and Elkton T. P. Co	1354 to 1361			4	4			
Sept.	8,	"	2	Gallatin T. P. Co	1362 to 1363			2				
"	9,	"	26	Pelham and Jasper T. P. Co	1364 to 1389			11	11	4		

Sept. 27, 1842	13	Nashville and Kentucky T. P. Co.	1390 to 1402			6	5	2	
Oct. 22, "	18	Cumberland and Stones' River T. P. Co.	1403 to 1420			2	15	1	
Jan. 11, 1843	8	Columbia, Pulaski and Elkton T. P. Co.	1421 to 1428			3	5		
" 12, "	8	Nashville and Kentucky T. P. Co.	1429 to 1436				7	1	
Feb. 27, "	11	Cumberland and Stones' River T. P. Co.	1437 to 1447			4	7		
Mar. 7, "	24	Jefferson T. P. Co.	1448 to 1471			5	17	2	
July 23, "	11	Pelham and Jasper T. P. Co.	1472 to 1482			3	7	1	
Aug. 5, "	10	Cumberland and Stones' River T. P. Co.	1483 to 1492			7	3		
Sept. 19, "	4	Jefferson T. P. Co.	1493 to 1496			1	3		
Nov. 1, "	5	Lebanon and Nashville T. P. Co.	1497 to 1501			1	3	1	
" 14, 1844	13	Harpeth T. P. Co.	1502 to 1514	6		5			2
Dec. 4, "	6	Jefferson T. P. Co.	1515 to 1520	5	1				
Jan. 30, 1845	8	Murfreesboro and Manchester T. P. Co.	1521 to 1528	8					
June 5, "	3	Columbia, Pulaski and Elkton T. P. Co.	1529 to 1531	3					
Aug. 30, "	3	Nashville and Kentucky T. P. Co.	1532 to 1534	2					1
Sept. 10, "	25	Murfreesboro and Manchester T. P. Co.	1535 to 1559	24					1
Jan. 3, 1846	13	" " " "	1560 to 1572	13					
Feb. 18, "	6	Lebanon and Nashville T. P. Co.	1573 to 1578	6					
Apr. 16, "	4	Franklin and Columbia T. P. Co.	1579 to 1582	1		3			
July 3, "	2	Jefferson T. P. Co.	1583 to 1584	2					
" 15, "	2	Columbia, Pulaski and Elkton T. P. Co.	1585 to 1586, 1 for $1600	1		1			
Sept. 23, "	3	Murfreesboro and Manchester T. P. Co.	1587 to 1589, 1 for $1900	3					
Feb. 8, 1847	10	Lebanon and Sparta T. P. Co.	1590 to 1599, 1 for $1800	5	1	1			3
Apr. 1, "	79	Hiwassee R. R. Co.	1600 to 1678	48	16	13			2
Nov. 15, "	13	" "	1679 to 1691	11		2			
Aug. 21, 1849	27	East Tennessee and Georgia R. R. Co.	1692 to 1718	20	4	3			
Nov. 19, "	46	" " " " "	1719 to 1764	35	4	4			3
May 15, 1850	21	" " " " "	1765 to 1785	20					1
Sept. 9, "	31	" " " " "	1786 to 1816	22	6	3			
Dec. 21, "	33	" " " " "	1817 to 1849	28	5				
June 30, 1851	18	" " " " "	1850 to 1867	15		3			
Nov. 20, "	25	" " " " "	1868 to 1892	12		7			6
	1	" " " " "	1966		1				
	1893			290	38	670	666	210	19

No. 1786 was duplicated, making in all 1894 Bonds.

STATEMENT OF BONDS—*Continued.*

MATURE JULY, 1890, NO LETTER SERIES, WHITE BONDS, ISSUED UNDER ACT JANUARY 30, 1850, 6 PER CENT.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
Sept. 7, 1850	150	East Tennessee and Georgia R. R. Co	1 to 150	117	16	8			9	
Mar. 3, 1851	100	“ “ “ “ “	151 to 250	84	5	3	4		4	
May 26, 1851	100	“ “ “ “ “	251 to 350	97	2				1	
	350			298	23	11	4		14	

SPECIAL ISSUE, 10 BONDS, 6 PER CENT., UNDER ACT MARCH 2, 1854, MATURE AFTER 10 YEARS.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
July 1, 1854	10	Mansker's Creek and Springfield T. P. Co	1 to 10			10				
	10					10				

SERIES “B.”

WHITE BONDS, 6 PER CENT., ISSUED UNDER ACT 1851-2; NOS. 1 TO 7908 DUE IN 1892; 7909 TO 11806 DUE IN 1898.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
July 27, 1852	10	East Tennessee and Virginia R. R	1 to 10	10						
Aug. 9, “	290	“ “ “ “ “	11 to 300	205	28	41	13		3	
July 30, “	25	Dyersburg and Mississippi River T. P. Co	301 to 325	25						
Jan. —, 1853	240	Memphis and Charleston R. R	326 to 565	188	10	35	3		3	1

July 3,	1853..	160	Memphis and Charleston R. R.	566 to	725	108	12	36	3			1
July 30,	" ..	20	East Tennessee and Georgia R. R.	726 to	745	17		3				
Dec. 7,	" ..	130	" " " " "	746 to	875	87	17	22	1		3	
Apr. 10,	1854..	20	" " " " "	876 to	895	18		2				
June 22,	" ..	20	" " " " "	896 to	915	16	3	1				
July 4,	" ..	200	Tennessee and Alabama R. R.	916 to	1115	108	35	42	12		1	2
Sept. 9,	" ..	100	" " "	1116 to	1215	58	17	11	9		4	1
Nov. 8,	" ..	290	East Tennessee and Georgia R. R.	1216 to	1505	189	16	66	12		3	4
" 28,	" ..	200	Memphis and Charleston R. R.	1506 to	1705	124	16	37	6		15	2
Jan. 29,	1855..	269	East Tennessee and Virginia R. R.	1706 to	1974	177	25	48	13		2	4
Mar. 27,	" ..	40	East Tennessee and Georgia R. R.	1975 to	2014	26	4	6	4			
May 22,	" ..	40	Memphis and Charleston R. R.	2015 to	2054	25	6	8			1	
" "	" ..	100	" " " "	2055 to	2154	62	8	26	2		1	1
" 24,	" ..	300	Memphis and Ohio R. R.	2155 to	2454	175	30	85			6	4
July 11,	" ..	40	" " "	2455 to	2494	31	1	5	1		1	1
" 24,	" ..	58	Mississippi and Tennessee R. R.	2495 to	2552	39	5	14				
" "	" ..	300	McMinnville and Manchester R. R.	2553 to	2852	188	18	79	6		7	2
" "	" ..	40	Mississippi and Tennessee Railroad	2853 to	2892	22	5	11			1	1
Jan. 1,	1856..	100	Memphis and Ohio Railroad	2893 to	2992	72	6	16			3	3
Nov. 7,	1855 .	100	East Tennessee and Virginia Railroad	2993 to	3092	68	6	22	3		1	
" 28,	" ..	20	Memphis and Charleston Railroad	3093 to	3112	10	2	7				1
" "	" ..	20	Memphis and Ohio R. R.	3113 to	3132	13	1	3			3	
Jan. 17,	1856..	100	East Tennessee and Virgina R. R.	3133 to	3232	41	8	50				1
Feb. 29,	" ..	170	Memphis and Ohio R. R.	3233 to	340[illegible]	91	11	66			2	
Mar. 21,	" ..	135	Memphis and Charleston R. R.	3403 to	3537	79	13	36	1		4	2
" 29,	" ..	48	Hermitage	3538 to	3585	34	9	4				1
May . 22,	" ..	300	Mississippi Central and Tennessee R. R.	3586 to	3885	186	17	87	4		5	1
June 17,	" ..	300	Mobile and Ohio R. R.	3886 to	4185	248	15	26	7		3	1
" "	" ..	36	" " " "	4186 to	4221	25	2	5	2		1	1
" "	" ..	50	Memphis and Charleston R. R.	4222 to	4271	26	1	22				1
July 15,	" ..	120	East Tennessee and Virginia R. R.	4272 to	4391	86	9	21			4	
June 17,	" ..	50	Memphis and Charleston Railroad	4392 to	4441	36	4	9			1	
July 19,	" ..	30	Agricultural Bureau	4442 to	4471	12	1	11	6			
" "	" ..	20	McMinnville and Manchester R. R.	4472 to	4491	13	1	5			1	
Sept. 29,	" ..	105	Memphis and Charleston R. R.	4492 to	4596	76	7	21				1
Nov. 15,	" ..	244	Mississippi Central Railroad	4597 to	4840	170	19	47	4		4	
" 18,	" ..	55	East Tennessee and Virginia R. R.	4841 to	4895	31	5	17	1		1	

STATEMENT OF BONDS.—*Continued.*

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
Nov. 19, 1856	62	McMinnville and Manchester Railroad	4896 to 4947	37	4	9	1			1
Dec. 12, "	100	Mobile and Ohio Railroad	4948 to 5047	86	11	2			1	
Mar. 3, 1857	195	East Tennessee and Virginia Railroad	5048 to 5242	136	11	43	1		2	2
Apr. 3, "	40	Memphis and Ohio Railroad	5243 to 5282	30	1	9				
" 4, "	20	Edgefield and Kentucky and L. and N. Railroad	5283 to 5302	15	4	1				
June 8, "	150	East Tennessee and Virginia Railroad	5303 to 5452	93	9	46			1	1
" 24, "	20	Edgefield and Kentucky and L. and N. Railroad	5453 to 5472	7	6	7				
Aug. 13, "	20	" " " " " "	5473 to 5492	16	3	1				
" 28, "	30	Mississippi Central and Tennessee Railroad	5493 to 5522	19	3	8				
" —, "	270	Mobile and Ohio Railroad	5523 to 5792	174	28	57	1		5	5
Oct. 12, "	70	East Tennessee and Virginia Railroad	5793 to 5862	44	7	16			1	2
" 17, "	40	Edgefield and Kentucky and L. and N. Railroad	5863 to 5902	28	8	4				
Nov. 16, "	68	Mobile and Ohio Railroad	5903 to 5970	44	3	17			2	2
Jan. 16, 1858	17	Tennessee and Alabama Railroad	5971 to 5987	7	1	6	3			
Feb. 4, "	100	East Tennessee and Virginia Railroad	5988 to 6087	54	11	31			1	3
Mar. 10, "	12	Edgefield and Kentucky and L. and N. Railroad	6088 to 6099	3	2	6				1
" 18, "	20	Memphis, Clarksville and Louisville Railroad	6100 to 6119	14	2	4				
Apr. 7, "	100	East Tennessee, Virginia and Georgia Railroad	6120 to 6219	63	8	29				
" 28, "	50	Tennessee and Alabama Railroad	6220 to 6269 In lieu of endorsed bonds Nos. 92 to 110, and 114 to 144.	11	14	24	1			
Apr. 30, 1858	50	Louisville and Nashville Railroad Co	6270 to 6319	38	2	9			1	
May 3, "	104	Tennessee and Alabama Railroad Co	6320 to 6423 In lieu of 32 to 45, 53 to 68, 77 to 91, 111 to 113, and 145 to 200.	71	8	25				

Apr.	30,	1858	150	Louisville and Nashville R. R. Co.	6424 to	6573	88	16	39	1		2	4
"	"	"	100	" " " "	6574 to	6673	63	16	20				1
May	10,	"	7	Winchester and Alabama R. R. Co.	6674 to	6680	1	2	4				
"	31,	"	100	East Tennessee and Georgia R. R. Co.	6681 to	6780	73	10	9	1		4	3
June	4,	"	68	Tennessee and Alabama R. R. Co.	6781 to	6848	5	2	60			1	
"	"	"	232	" " " "	6849 to	7080	141	23	57	1		4	6
"	9,	"	7	Winchester and Alabama R. R. Co.	7081 to	7087	6		1				
"	10,	"	43	East Tennessee and Virginia R. R. Co.	7088 to	7130	29	1	11	1		1	
"	11,	"	300	Edgefield and Kentucky R. R. Co.	7131 to	7430	196	29	69	2		2	2
July	22,	"	150	Winchester and Alabama R. R. Co.	7431 to	7580	95	10	38			2	5
"	26,	"	200	Memphis and Ohio R. R. Co.	7581 to	7780	131	10	52	1		3	3
Aug.	25,	"	128	Central Southern R. R. Co.	7781 to	7908	91	13	23	1			
"	"	"	171	" " "	7909 to	8079	105	25	40				1
"	27,	"	32	Tennessee and Alabama R. R. Co.	8080 to	8111	7	2	22				1
"	"	"	43	" " " "	8112 to	8154	29	5	8			1	
Sept.	29,	"	20	Edgefield and Kentucky and L. and N. R. R. Co.	8155 to	8174	19	1					
Dec.	17,	"	120	Memphis and Ohio R. R. Co.	8175 to	8294	76	10	28			4	2
"	20,	"	10	Memphis, Clarksville and Louisville R. R. Co.	8295 to	8304	6	3	1				
"	28,	"	20	Edgefield and Kentucky and L. and N, R, R. Co.	8305 to	8324	13	2	5				
"	30,	"	2	Winchester and Alabama R. R. Co.	8325 to	8326	2						
Jan.	31,	1859	11	" " " "	8327 to	8337	7	2	1			1	
"	"	"	5	" " " "	8338 to	8342	4		1				
"	28,	"	23	Rogersville and Jefferson R. R. Co.	8343 to	8365	16	1	6				
"	31,	"	2	Winchester and Alabama R. R. Co.	8366 to	8367	1		1				
"	"	"	30	Memphis aud Ohio R. R. Co.	8368 to	8397	23	1	6				
"	"	"	93	Winchester and Alabama R. R. Co.	8398 to	8490	66	4	21				2
Feb.	12,	"	26	Edgefield and Kentucky R. R. Co.	8491 to	8516	16	2	6			1	1
Mar.	11,	"	100	East Tennessee and Georgia R. R. Co.	8517 to	8616	57	8	35				
"	15,	"	13	Tennessee and Alabama R. R. Co.	8617 to	8629	8	2	3				
May	2,	"	150	Memphis and Ohio R. R. Co.	8630 to	8779	97	12	36	1			4
"	24,	"	180	Edgefield and Kentucky R. R. Co.	8780 to	8959	110	14	52			1	3
June	9,	"	16	" " " "	8960 to	8975	9		6			1	
"	21,	"	136	Winchester and Alabama R. R. Co.	8976 to	9111	88	10	37			1	
"	27,	"	40	Memphis, Clarksville and Louisville R. R. Co.	9112 to	9151	28	5	6			1	
July	4,	"	150	Memphis and Ohio R. R. Co.	9152 to	9301	113	6	29				2
"	5,	"	150	Louisville and Nashville R. R. Co.	9302 to	9451	98	12	32			3	5
"	7,	"	100	Rogersville and Jeffersonville R. R. Co.	9452 to	9551	67	8	23			1	1

STATEMENT OF BONDS.—*Continued.*

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal, under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
July 9, 1859..	300	Memphis, Clarksville and Louisville R. R. Co......	9552 to 9851....	189	40	60	......	.....	5	6
Aug. 30, " ..	10	Edgefield and Kentucky R. R. Co	9852 to 9861....	8	2	....	......	.....	.....	....
Sept. 2, " ..	100	Memphis and Ohio R. R. Co...............	9862 to 9961....	80	4	15	......	.....	.....	1
" 5, " ..	7	" " " " "	9962 to 9968	7	....	....	......	.....	.....	....
" 9, " ..	13	Central Southern R. R. Co	9969 to 9981....	8	2	3	......	.....	.....	....
" 9, " ..	92	East Tennessee and Georgia R. R. Co............	9982 to 10073....	68	19	5	......	.....	.....	....
" 30, " ..	17	Edgefield and Kentucky R. R. Co	10074 to 10090....	14	1	2	......	.....	.....	....
Oct. 6, " ..	20	Memphis, Clarksville and Louisville R. R. Co......	10091 to 10110....	12	3	4	......	.....	.....	1
" 6, " ..	100	Mobile and Ohio R. R. Co...................	10111 to 10210....	72	10	13	3	...	2	....
" 27, " ..	20	Edgefield and Kentucky R. R. Co...............	10211 to 10230....	15	3	1	1	.....	.....	....
Dec. 3, " ..	20	Memphis, Clarksville and Louisville R. R. Co......	10231 to 10250....	17	....	2	......	.....	1	....
" 14, " ..	57	Memphis and Ohio R. R. Co........	10251 to 10307....	33	4	19	......	.....	1	....
			In lieu of endorsed bonds.							
" 15, " ..	14	Tennessee and Alabama R. R. Co................	10308 to 10321....	9	....	5	......	.....	.....	....
" 23, " ..	280	Nashville and Northwestern R. R. Co.......	10322 to 10601....	175	25	71	1	....	6	2
Jan. 18, 1860..	13	Central Southern R. R. Co....................	10602 to 10614....	13	....	....	......	.....	.....	....
" 19, " ..	13	Memphis & Ohio R. R. Co.....................	10615 to 10627....	6	4	3	......	.....	.....	....
" 21, " ..	11	L. and N. and Edgefield and Kentucky R. R. Co...	10628 to 10638....	9	..	2	......	.....	.....	....
" 19, " ..	2	Memphis and Ohio R. R. Co....................	10639 to 10640....	2	....	....	......	.....	.....	....
" 23, " ..	51	Edgefield and Kentucky R. R. Co................	10641 to 10691....	41	4	6	......	.....	.....	....
Feb. 20, " ..	82	Nashville and Chattanooga R. R. Co..............	10692 to 10773....	54	14	12	1	....	1	....
" 23, " ..	20	Winchester and Alabama R. R. Co..............	10774 to 10793....	14	1	3	......	.....	2	....
Apr. 16, " ..	45	Edgefield and Kentucky R. R. Co................	10794 to 10838....	19	2	23	......	.....	.....	1
May 1, " ..	100	Memphis, Clarksville and Louisville R. R. Co.....	10839 to 10938....	66	5	23	1	....	1	4
" 7, " ..	80	Knoxville and Kentucky R. R. Co................	10939 to 11018....	46	7	22	1	....	2	2

May 9, 1860	176	Central Southern R. R.	11019	to	11194	110	16	45	....	....	5	....
“ 30, “	31	Nashville and Chattanooga R. R.	11195	to	11225	10	2	17	1	....	1	....
June 27, “	169	Memphis, Clarksville and Louisville R. R.	11226	to	11394	98	16	45	1	....	3	6
“ 13, “	50	Nashville and Northwestern R. R.	11395	to	11444	31	4	15	....	....	....	....
“ 27, “	100	“ “ “ “	11445	to	11544	74	2	20	1	....	3	....
July 10, “	100	Mobile and Ohio R. R.	11545	to	11644	69	5	23	....	....	3	....
“ 26, “	40	Memphis, Clarksville and Louisville R. R.	11645	to	11684	24	5	9	....	....	2	....
“ “ “	20	“ “ “ “ “	11685	to	11704	11	6	2	....	....	....	1
Aug. 1, “	36	Rogersville and Jefferson R. R.	11705	to	11740	18	2	13	....	....	1	2
“ 3, “	66	Cincinnati, Cumberland Gap and Ch. R. R.	11741	to	11806	44	4	16	....	....	....	2
Total	11806					7645	1028	2694	140	....	171	128

In issuing this series of Bonds, the numbers from 7000 to 7027 were duplicated by inadvertence. The duplicates can be distinguished in this, that the Bonds issued to the Edgefield and Kentucky and L. and N. R. R. are signed by Burton, and those issued to the Tennessee and Alabama R. R. are signed by Ray.

Mar. 10, 1858	27	Edgefield and Kentucky and L. and N. R. R.	7000	to	7027	25	1	1	....	....	....	....

SERIES “C.”

WHITE BOND SIX PER CENT., ISSUED UNDER ACT 1851-2, DUE IN 1898.

Aug. 3, 1860	66	Cincinnati, Cumberland Gap and Ch. R. R.	1	to	66	44	8	11	1	....	2	....
“ 11, “	130	Nashville and Northwestern R. R.	67	to	196	70	11	44	1	....	3	1
Sept. 14, “	170	“ “ “ “	197	to	366	108	20	38	1	....	1	2
“ 17, “	150	Mobile and Ohio R. R.	367	to	516	92	14	42	....	....	2	....
“ 22, “	20	Memphis, Clarksville and Louisville R. R.	517	to	536	9	2	6	....	....	....	3
Oct. 23, “	180	“ “ “ “ “	537	to	716	116	9	51	2	....	1	1
“ 29, “	165	Nashville and Northwestern R. R.	717	to	881	108	12	43	....	....	2	....
Nov. 16, “	27	Nashville and Chattanooga R. R.	882	to	908	18	7	2	....	....	....	....
“ 17, “	100	Knoxville and Kentucky R. R.	909	to	1008	46	6	44	....	....	1	3
Dec. 5, “	20	Memphis, Clarksville and Louisville R. R.	1009	to	1028	14	2	4	....	....	....	....
“ 18, “	190	Nashville and Northwestern R. R.	1029	to	1218	125	16	46	....	....	2	1
Jan. 9, 1861	120	Central Southern R. R.	1219	to	1238	20	....	....	....	....	....	....
“ 29, “	120	Nashville and Northwestern R. R.	1339	to	1358	92	6	20	....	....	1	1
Feb. 23, “	130	“ “ “ “	1359	to	1488	89	14	24	....	....	2	1

STATEMENT OF BONDS.—*Continued.*

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
Feb. 28, 1861....	83	Memphis, Clarksville and Louisville Railroad......	1489 to 1571......	51	8	21	......	....	2	1
Mar. 2, "	10	Nashville and Chattanooga Railroad..............	1572 to 1581......	2	....	8	......	....	....	....
Apr. 20, "	5	Louisville and Nashville Railroad..............	1582 to 1586......	5	....	....	......	....	....	....
" 22, "	120	Nashville and Northwestern Railroad..............	1587 to 1706......	87	6	23	......	....	3	1
June 11, "	172	Mobile and Ohio Railroad..............................	1707 to 1878......	124	14	34	......	....	....	....
Total.......	1878	....	....	1220	155	461	5	....	22	15

SPECIAL ISSUES, SIX PER CENT., UNDER ACTS MARCH 2, 1854, AND JANUARY 15, 1852.

The 8 first mature January 1, 1876; 6 mature July 1, 1868, and the last 16 Bonds mature June 1, 1872.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
June 14, 1861....	8	Carthage and Rome Turnpike Co..................	1 to 8......	2	....	6	......	....	....	....
July 30, 1856....	6	Carthage and Hartsville Turnpike Co..............	1 to 6......	....	....	5	......	....	1	....
" 14, "	16	Car., Alex. and Red Sul. Turnpike Co............	1 to 16......	....	....	4	12	....	....	....
Total.......	30	....	....	2	....	15	12	....	1	....

SERIES GREEN BONDS, NO LETTER, SIX PER CENT., ISSUED UNDER ACT 1851-2 AND AMENDMENTS.

From No. 1 to 8470 due in 1892; from 8471 to 10,000 due in 1900.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
May 27, 1866....	40	Memphis, Clarksville and Louisville Railroad.......	1 to 40......	10	4	26	......	....	....	....
Apr. 4, "	275	Nashville and Northwestern Railroad..............	41 to 315......	107	30	132	......	....	1	5
" 4, "	346	McMinnville and Manchester Railroad..............	316 to 661......	91	10	243	......	....	1	1
" 11, "	150	Memphis and Ohio Railroad..........................	662 to 811......	42	12	95	......	....	1	....

Apr. 14, 1866	150	Memphis, Clarksville and Louisville Railroad	812 to	961	33	6	108			1	2
" 17, "	200	Memphis and Charleston Railroad	962 to	1161	42	4	154				
" 19, "	64	Memphis, Clarksville and Louisville Railroad	1162 to	1225	13	2	47			1	1
" 23, "	115	Edgefield and Kentucky Railroad	1225 to	1340	35	7	72			1	
" 24, "	55	Rogersville and Jefferson Railroad	1341 to	1395	13	4	38				
" 26, "	300	East Tennessee and Virginia Railroad	1396 to	1695	86	20	192				2
" 27, "	250	Knoxville and Kentucky Railroad	1696 to	1945	74	13	159	1		1	2
May 3, "	50	Mississippi and Tennessee Railroad	1946 to	1995	5	3	42				
" 7, "	200	Mississippi Central Railroad	1996 to	2195	33	4	159				4
" 8, "	50	Memphis, Clarksville and Louisville Railroad	2196 to	2245	8	14	28				
" 12, "	225	Nashville and Northwestern Railroad	2246 to	2470	64	21	138			1	1
" 23, "	75	Central Southern Railroad	2471 to	2545	10	3	61				1
" 29, "	100	Rogersville and Jefferson Railroad	2546 to	2645	20	6	71			1	2
June 1, "	150	Memphis and Ohio Railroad	2646 to	2795	42	9	95			2	2
" 13, "	100	Memphis, Clarksville and Louisville Railroad	2796 to	2895	22	4	74				
" 14, "	200	Tennessee and Alabama Railroad	2896 to	3095	3	2	195				
" 20, "	110	Edgefield and Kentucky Railroad,	3096 to	3205	24	5	80				1
" 21, "	100	Tennessee and Alabama Railroad,	3206 to	3305			99				1
" 26, "	54	McMinnville and Manchester Railroad	3306 to	3359	18	5	31				
" 27, "	100	Memphis and Charleston Railroad	3360 to	3459	8	5	87				
" 29, "	250	Winchester and Alabama Railroad	3460 to	3709	45	17	185			1	2
July 6, "	150	Nashville and Northwestern Railroad,	3710 to	3859	34	10	104			1	1
" 12, "	136	Memphis, Clarksville and Louisville Railroad,	3860 to	3995	31	11	92			1	1
" 13, "	122	Winchester and Alabama Railroad	3996 to	4117	30	8	78			1	5
" 17, "	75	Nashville and Northwestern Railroad	4118 to	4192	11	3	58			1	2
" 19, "	100	Cin., Cumberland Gap and Charleston Railroad	4193 to	4292	34	4	62				
" 23, "	250	Knoxville and Kentucky Railroad	4293 to	4542	71	8	166			1	4
Aug. 22, "	122	Cin., Cumberland Gap and Charleston Railroad	4543 to	4664	24	5	90			1	2
Oct. 17, "	250	East Tennessee and Georgia Railroad	4665 to	4914	52	15	175			1	7
Nov. 30, "	41	Rogersville and Jefferson Railroad	4915 to	4955	18	1	21				1
Dec. 6, "	50	Nashville and Northwestern Railroad	4956 to	5005	7	3	39				1
" 12, "	100	Cin., Cumberland Gap and Charleston Railroad	5006 to	5105	24	8	61			6	1
" 15, "	150	Mississippi and Tennessee Railroad	5106 to	5255	17	1	130				2
" 21, "	200	Memphis and Ohio Railroad	5256 to	5455	85	8	105			1	1
	5	Renewals	5456 to	5460	1	1	3				
Dec. 27, 1866	125	Nashville and Chattanooga Railroad	5461 to	5585	21	6	95			1	2
	8	Renewals	5586 to	5593	2	2	4				

STATEMENT OF BONDS.—*Continued.*

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
Jan. 2, 1867	200	Nashville and Northwestern Railroad	5594 to 5793	70	12	117				1
" 3, "	110	Knoxville and Kentucky Railroad	5794 to 5903	35	4	70	1			
" 3, "	20	" " " "	5904 to 5923	4	2	14				
" 3, "	77	Knoxville and Charleston "	5924 to 6000	37	6	34				
	33	Renewals	6001 to 6032	1	1	31				
			6001 to 6017 rejected. Valley of Virginia Insurance Company.							
Feb. 14, 1867	300	East Tennessee and Virginia Railroad	6033 to 6332	77	36	182			1	4
" 14, "	100	Knoxville and Kentucky "	6333 to 6432	17	12	67			1	3
" 21, "	167	Cin., Cumb. Gap & Charleston "	6434 to 6600	27	7	127			1	5
Mar. 2, "	9	Renewals	6601 to 6609	2	4	3				
" 2, "	100	Knoxville and Kentucky Railroad	6610 to 6709	19	7	72				2
	1	Renewals	6710			1				
" 23, "	25	Nashville and Northwestern Railroad	6711 to 6735	1	3	21				
	6	Renewals	6736 to 6741		1	5				
			6740 rejected Valley of Va. Ins. Co.							
Mar. 27, 1867	150	Mississippi Central Railroad	6742 to 6891	29	19	99				3
" 27, "	125	Nashville and Northwestern Railroad	6892 to 7016	22	7	93			1	2
	2	Renewals	7017 to 7018	2						
Apr. 1, 1867	300	Knoxville and Kentucky Railroad	7019 to 7318	69	37	190			2	2
" 1, "	82	Knoxville and Charleston "	7319 to 7400	8	7	64			1	2
" 29, "	100	" " " "	7401 to 7500	17	6	77				
" 29, "	41	" " " "	7501 to 7541	9	1	30				1

Apr. 16, 1867	9	Renewals	7542 to 7550	2	1	6				
			7546 and 7547 rejected							
			Valley of Virginia Ins. Co.							
Apr. 16, 1867	150	Winchester and Alabama Railroad	7551 to 7700	37	5	106				2
" 25, "	333	Cincinnati, Cumberland Gap and Ch. Railroad	7701 to 8033	76	24	226			3	4
	7	Renewals	8034 to 8040	2		5				
May 9, 1867	120	Nashville and Chattanooga Railroad	8041 to 8160	6	7	103				4
	41	Renewals	8161 to 8201	6	2	28			2	3
June 25, 1867	92	Nashville and Northwestern Railroad	8202 to 8293	11	5	73				3
	67	Renewals	8294 to 8360	32	1	34				
Oct. 8, 1867	110	Knoxville and Kentucky Railroad	8361 to 8470	24	9	76				1
" " "	25	Knoxville and Charleston Railroad	8471 to 8495	4	1	20				
	17	Renewals	8496 to 8512	4	1	12				
Dec. 11, 1867	34	Winchester and Alabama Railroad	8513 to 8546	4	1	29				
	4	Renewals	8547 to 8550	1		3				
	13	"	8551 to 8563			13				
Mar. 6, 1869	67	Knoxville and Kentucky Railroad	8564 to 8630	1	3	55				8
	20	Renewals	8631 to 8650	5		15				
Mar. 6, 1869	63	Knoxville and Kentucky Railroad	8651 to 8713	3	2	57			1	
Aug. 17, "	57	Tennessee and Pacific Railroad	8714 to 8770	1		56				
	3	Renewals	8771 to 8773	2					1	
Aug. 17, "	10	Tennessee and Pacific Railroad	8774 to 8783			10				
Oct. 8, "	5	Jacksboro and Powell's Valley Turnpike Co.	8784 to 8888	1		4				
July 10, "	45	Tennessee and Pacific Railroad	8789 to 8833	8		37				
Feb. 20, 1868	100	Knoxville and Charleston Railroad	8834 to 8933	15	7	76				2
" " "	50	" " " "	8934 to 8983	5	1	41			2	1
Mar. 12, "	25	" " " "	8984 to 9008	6	3	16				
	32	Renewals	9009 to 9040	12		20				
May 1, 1868	97	Cincinnati, Cumberland Gap and Ch. Railroad	9041 to 9137	10	6	79				2
" 7, "	60	Knoxville and Charleston Railroad	9138 to 9197	2	11	47				
	17	Renewals	9198 to 9214	5	1	11				
May 22, 1868	20	Bristol and Hendricks Creek Turnpike Co.	9215 to 9234	4		15				1
	110	Renewals	9235 to 9344	34	3	72				1
Aug. 17, 1869	168	Tennessee and Pacific Railroad	9345 to 9512	16	2	149			1	
Sept. 7, "	27	Southern Railroad	9513 to 9539	6		21				
Oct. 27, "	138	Tennessee and Pacific Railroad	9540 to 9677	17	5	115			1	
	3	Renewals	9678 to 9680	1		2				

STATEMENT OF BONDS.—*Continued.*

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
June 5, 1869	150	East Tennessee and West Nor. Car. Railroad	9681 to 9830	8		142				
" 18, "	20	Tennessee and Pacific Railroad	9831 to 9850			20				
Oct. 2, "	15	Mineral Home Railroad	9851 to 9865 rejected			15				
July 12, "	30	Southern Railroad	9866 to 9895			30				
Oct. 2, "	85	Mineral Home Railroad	9896 to 9980 rejected			85				
" 9, "	20	Tennessee and Pacific Railroad	9981 to 10000	2		18				
Total	10000			2137	577	7133	2		45	114

SERIES GREEN BONDS, LETTER "B,'

SIX PER CENT., ISSUED UNDER ACT 1851-2 AND AMENDMENTS—MATURE IN 1900.

Dec. 30, 1867	100	Mississippi Central Railroad	1 to 100	13	2	85				
" 27, "	100	Nashville and Northwestern Railroad	101 to 200	18	2	78			2	
" 31, "	100	Mississippi Central Railroad	201 to 300	21		79				
Jan. 8, 1868	50	Evansville, Hendersonville and Nashville R. R.	301 to 350	7	1	42				
" " "	150	Knoxville and Kentucky Railroad	351 to 500	14	4	122				10
" 13, "	210	Nashville and Decatur Railroad	501 to 710	23	10	162			1	14
" 14, "	5	Edgefield and Kentucky Railroad	711 to 715	3	1	1				
" " "	40	Mississippi and Tennessee Railroad	716 to 755	3	3	33			1	
" 15, "	55	" " "	756 to 810	14	3	38				
" 14, "	20	Edgefield and Kentucky "	811 to 830	3	3	13				1
" 15, "	5	Mississippi and Tennessee "	831 to 835			5				
" 16, "	68	Edgefield and Kentucky and E. H. N. Railroad	836 to 903	9	3	56				

Jan. 17, 1868	32	Edgefield and Kentucky and E., H. N. R. R.	904 to 935	3	1	28				
" 18, "	50	" " " " " "	936 to 985	3	2	45				
" 24, "	350	Knoxville and Kentucky Railroad	986 to 1335	50	14	279			1	6
" 26, "	150	Knoxville and Charleston "	1336 to 1485	33	16	91			3	7
" 23, "	75	Edgefield and Kentucky "	1486 to 1560	11	14	46				4
" 31, "	100	Cin., Cumb. Gap and Ch. "	1561 to 1660	13	1	70			13	3
" 31, "	100	Cincinnati and Cumb. Gap. "	1661 to 1760	9	9	78			2	2
" 30, "	300	Winchester and Alabama "	1761 to 2060	43	14	231			6	6
Feb. 3, "	115	Nashville and Decatur "	2061 to 2175	24	2	89				
" 14, "	25	" " " "	2176 to 2200	1	1	23				
" 20, "	300	Knoxville and Kentucky "	2201 to 2500	28	8	252			3	9
Mar. 28, "	30	Rogersville and Jefferson "	2501 to 2530	7		19				4
" 28, "	15	Rogersville and Little War Gap Railroad	2531 to 2545	2		13				
Apr. 28, "	150	East. Tenn. and West. N. C. "	2546 to 2695	15	6	124			1	4
May 1, "	122	Cincinnati, Cumb. Gap and Ch. "	2696 to 2817	15	4	95			2	6
June 27, "	300	Southern "	2818 to 3117	45	16	225			2	12
July 17, "	43	Nashville and Northwestern "	3118 to 3160	5	4	34				
" 27, "	207	" " " "	3161 to 3367	29	5	163				10
" 29, "	100	" " " "	3368 to 3467	9	1	88				2
" 30, "	100	East Tenn. and West. N. C. "	3468 to 3567	10	2	88				
" 29, "	100	Nashville and Northwestern "	3568 to 3667	8	4	88				
Oct. 20, "	300	Memphis and Charleston "	3668 to 3967	21	17	261				1
Feb. 3, "	15	New Market Turnpike Co.	3968 to 3982	2		13				
" 3, "	5	Rogersville and Little War Gap Railroad	3983 to 3987			5				
Aug. 16, 1869	30	Southern "	3988 to 4017	5		25				
Sept. 30, "	31	" "	4018 to 4048		1	30				
Oct. 8, "	3	Jacksboro and Powell's Valley Turnpike Co.	4049 to 4051			3				
" 2, "	251	Tennessee and Pacific Railroad	4052 to 4302	20	6	225				
" 9, "	197	" " " "	4303 to 4499	3		194				
Dec. 7, "	279	" " " "	4500 to 4778	1		278				
Jan. 28, 1870	69	Southern "	4779 to 4847	5		64				
May 18, "	50	Mulberry and Rogersville Turnpike Co.	4848 to 4897	3		47				
Dec. 31, 1869	231	To Comptroller	4898 to 5128			231				
Jan. 25, 1870	16	Southwestern Railroad	5129 to 5144	1		15				
	59	Renewals	5145 to 5203	9	22	28				
Total	5203			561	202	4302			37	101

STATEMENT OF BONDS.—*Continued.*

CAPITOL BONDS.

6 PER CENT.; ISSUED UNDER ACTS 1848, 1850, 1852, 1854, 1856 and 1860.

When Issued.	No. of Bonds.	TO WHOM ISSUED.	How Numbered.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal under Act Dec., 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
Apr. 1, 1848...	200	Capitol, White, A..........	1 to 200, $250 each...	....	....	200	....	....	....	....
Mar. 1, 1849...	200	" " B..........	1 to 200, $250 each...	....	....	200	....	....	....	....
" 2, 1850...	75	" " C..........	1 to 75...	....	....	6	67	2	....	....
" 25, 1851...	75	" " D..........	1 to 75...	....	....	43	32	....	....	....
" 22, 1852...	150	" " E..........	1 to 150...	....	....	6	144	....	....	....
Aug. 27, " ...	50	" " E..........	151 to 200...	....	....	34	15	1	....	....
Mar. 9, 1853...	50	" " E..........	201 to 250...	....	....	16	33	1	....	....
Feb. 28, 1854...	191	" " F..........	1 to 191...	....	....	90	65	36	....	....
Dec., 1856...	50	" " F..........	192 to 241...	....	....	49	....	1	....	....
Mar., 1857...	20	" " F..........	242 to 261...	15	....	4	....	....	1	....
Sept. 11, " ...	10	" " F..........	262 to 271...	1	....	9	....	....	....	....
Dec., " ...	20	" " F..........	272 to 291...	10	1	8	....	....	1	....
" 7, " ...	50	" " F..........	292 to 341...	43	....	7	....	....	....	....
Sept. 19, 1860...	25	"	1 to 25...	25	....	....	....	....	....	....
Total........	1166	....	....	94	1	672	356	41	2	...

SERIES GREEN BONDS, LETTER "C."

SIX PER CENT.; ISSUED UNDER ACT 1868; MATURE IN 1900.

	160	To Comptroller	1 to	160	101	8	50	....	....	1	....
	362	"	161 to	522	245	28	80	....	....	7	2
	478	"	523 to	1000	201	52	220	....	....	5	....
	400	"	1001 to	1400	7	14	379	....	....	....	....
	300	"	1401 to	1700	....	....	300	....	....	....	....
	500	"	1701 to	2200	....	....	500	....	....	....	....
Total	2200				554	102	1529	....	....	13	2

SERIES WHITE BONDS, LETTER "D."

FUNDING BONDS; ACT 1866; 6 PER CENT.; MATURE JANUARY, 1892.

	4941	To Fund Debt	1 to	4941	2137	663	2032	23	....	49	37

NEW SERIES FUNDING BONDS, GREEN, LETTER "F."

SIX PER CENT.; ISSUE UNDER ACT MARCH, 1873; MATUE IN 1914.

	6641	To Fund Debt	1 to	6641	....	....	....	....	....	....	....
	....	No. Cancelled	1774		....	....	....	....	....	....	....
	....	No. Outstanding	4867		....	....	....	....	....	....	....

RECAPITULATION,

Showing the total number and amount of Bonds issued, how many have been registered and remain outstanding, how many cancelled, renewed, etc.—arranged according to Series.

No. of Bonds.	AMOUNT.	Rate of Interest.	SERIES.	Registered and Uncancelled.	Registered and Cancelled.	Cancelled before Registation.	Cancelled by Renewal under Act December, 1866, and Act March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. University.
500	$ 500,000 00	5	Union Bauk of Tennessee	....	....	375	......	125	....	....
2500	2,500,000 00	6	Bank of Tennessee	....	....	2286	191	23	....	....
67	66,666 66	5¾	Nashville, Murfreesboro and Shelbyville Turnpike Company	....	....	67	......	....	....	....
31	31,500 00	5¼	Gallatin Turnpike Company	....	....	31	......	....	....	....
40	40,000 00	5¼	Lebanon and Nashville Turnpike Company	....	....	36	1	3	....	....
10	10,000 00	6	Manskers Creek and Springfield Turnpike Company	....	....	10	......	....	....	....
110	126,250 00	5¼	Lagrange and Memphis Railroad Company	....	....	96	......	14	....	....
350	350,000 00	6	East Tennessee and Georgia Railroad Company	298	23	11	4	....	14	....
1893	1,956,900 00	5	White Letter "A"	290	38	670	666	210	19	....
11833	11,833,000 00	6	" " "B"	7670	1029	2695	140	....	171	128
1878	1,878,000 00	6	" " "C"	1220	155	461	5	....	22	15
1166	866,000 00	6	Capitol Bonds	94	1	672	356	41	2	....
30	30,000 00	6	Special Issue [Turnpikes]	2	....	15	12	....	1	....
4941	4,941,000 00	6	White, Letter "D"	2137	663	2032	23	....	49	37
10000	10,000,000 00	6	Green, no Letter	2129	577	7133	2	....	45	114
5203	5,203,000 00	6	" Letter "B"	561	202	4302	......	....	37	101
2200	2,200,000 00	6	" " "C"	554	102	1529	......	....	13	2
42752	$42,532,316 66			14955	2790	22421	1400	416	373	397
6641	6,641,000 00	6	Green Letter "F."—"New Series Funding Bonds"—Outstanding 4867—Cancelled 1774	4867	1774					

SUMMARY.

Total number of Bonds issued		49,393	Total amount Issued		$49,173,316 66
Accounted for as follows:					
No. of Bonds registered and uncancelled	14,955		Amount	$14,957,300 00	
No. of Bonds belonging to East Tenn. University	397		Amount	397,000 00	
No. of New Series Funding Bonds outstanding	4,867		Amount	4,867,000 00	
No. Bonds outstanding as liability against State		20,219	Amount of liability		$20,221,300 00
No. of Bonds cancelled after registration	2,790		Amount	$ 2,790,000 00	
No. of Bonds cancelled before registration	22,421		Amount	22,197,016 66	
No. of Bonds cancelled by renewal	1,400		Amount	1,400,000 00	
No. of New Series Funding Bonds cancelled	1,774		Amount	1,774,000 00	
No. of Bonds cancelled		28,385	Amount cancelled		$28,163,016 66
No. of Bonds out to be renewed	416		Amount	$ 416,000 00	
No. of Bonds out to be registered	373		Amount	373,000 00	
No. of Bonds outstanding and unaccounted for		789	Amount unaccounted for		$ 789,000 00
Total number of Bonds issued		49,393	Total amount issued		$49,173,316 66

STATEMENT OF BONDS

Showing number and amount issued to Banks, Railroads, Turnpikes, etc., arranged according to the parties receiving them; how many have been registered, how many cancelled, how many renewed, etc.

UNION BANK OF TENNESSEE.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
January 1, 1833..........	January 1, 1848......	125	$125,000 00	1 to 125	5 per cent.	......	......	125	....	......	......	....
" "	" " 1853......	125	125 000 00	1 " 125	5 "	......	......	125	....	......	......	....
" "	" " 1858......	125	125,000 00	1 " 125	5 "	......	......	125	....	......	......	....
" "	" " 1863......	125	125,000 00	1 " 125	5 "	......	......	......	....	125	......	....
Total................	....	500	$ 500,000 00	....	....	......	......	375	....	125	......	....

BANK OF TENNESSEE.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
May 7, 1838............	May 7, 1868.........	1000	$1,000,000 00	1 to 1000	6 per cent.	......	......	786	191	23	......	....
July 2, 1838............	July 2, 1868.........	1500	1,500,000 00	1001 " 2500	6 "	......	......	1500	....	......	......	....
Total................	....	2500	$2,500,000 00	....	....	......	......	2286	191	23	......	....

NASHVILLE, MULFREESBORO, AND SHELBYVILLE TURNPIKE COMPANY.

July 25, 1836............	July 25, 1861............	66	$66,000 00	1 to 66	5¼ per cent.	.....	.....	66	.....	.....	.....	....
“ “	“ “	1	666 66	67	5¼ “	.....	.....	1	.....	.....	.....	....
Total............	....	67	$66,666 66	....	....	.....	.....	67	.....	.....	.....	....

GALLATIN TURNPIKE COMPANY.

November 1, 1837	November, 1862	18	$18 000 00	1 to 18	5¼ per cent	.....	.....	18	.....	.....	.....	....
March 31, 1838	March, 1863............	12	12,000 00	19 “ 30	5¼ “	.....	.....	12	.....	.....	.....	....
“ “ “	“ “	1	1.500 00	31	5¼ “	.....	.....	1	.....	.....	.....	....
November 24, 1838	November, 1868........	41	41,000 00	197 “ 237	White “A” 5 “	.....	.....	37	3	1	.....	....
March 22. 1839	March, 1869............	27	27,000 00	402 “ 428	“ 5 “	.....	.....	12	9	6	.....	....
August 3. 1840..........	August, 1870	11	11,000 00	802 “ 812	“ 5 “	.....	.....	1	9	1	.....	....
July 19, 1841............	July, 1871	22	22,000 00	1166. “ 1187	“ 5 “	.....	.....	5	13	4	.....	....
Total............	....	132	$132 500 00	....	....	.....	.....	86	34	12	.....	....

CHAMBERS AND PURDY TURNPIKE COMPANY.

November 3 1838.......	November 1868	1	$1 000 00	1	White “A” 5 per cent.	.....	.....	1	.....	.....	.....	....
January 7 1839	January, 1869...........	2	2,000 00	338 to 339	“ “ “	.....	.....	.....	2	.....	.....	....
February 1, 1839........	February, 1869	3	3,000 00	387 “ 389	“ “ “	.....	.....	.....	3	.....	.....	....
May 14, 1839	May, 1869	1	1 000 00	448	“ “ “	.....	.....	1	.....	.....	.....	....
Total............	....	7	$7 000 00	....	....	.....	.....	2	5	.....	.....	....

FRANKLIN AND COLUMBIA TURNPIKE COMPANY.

November 3 1838.......	Novamber, 1868	22	$22,000 00	99 to 120	White “A” 5 per cent.	.....	.....	13	7	2	.....	....
January 24, 1870........	January, 1840	49	49,000 00	698 “ 746	“ “ “	.....	.....	16	28	5	.....	....
April 16, 1876...........	April, 1846	4	4 900 00	1579 “ 1582	“ “ “	1	.....	3	.....	.....	.....	....
Total............	....	75	$75,900 00	....	....	1	.....	32	35	7	.....	....

COLUMBIA CENTRAL TURNPIKE COMPANY.

November 3, 1838......	November, 1868	45	$45,000 00	121 to 165	White “A” 5 per cent.	.....	.....	34	6	5	.....	....
“ 30, “	“ “	24	24 000 00	238 “ 261	“ “ “	.....	.....	23	.....	1	.....	....
June 3, 1838	June, “	81	81,000 00	1085 “ 1165	“ “ “	.....	.....	25	48	8	.....	....
Total............	....	150	$150,000 00	....	....	.....	.....	82	54	14	.....	....

STATEMENT OF BONDS—*Continued.*

NASHVILLE AND CHARLOTTE TURNPIKE COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
November 3, 1838.......	November 1868	15	$15,000 00	166 to 180	White "A" 5 per cent.	......	......	13	2	......	......	....
January 9, 1839.........	January 1869	9	9,000 00	346 " 352	" " "	......	......	1	7	1	......	....
" 6, 1840.........	" 1870	6	6,000 00	627 " 632	" " "	......	......	2	3	1	......	....
Total..............	....	30	30,000 00	....	....	......	......	16	12	2	......	....

FAYETTEVILLE AND SHELLBYVILLE TURNPIKE COMPANY.

November 5, 1838.......	November, 1868	16	$16,000 00	181 to 196	White "A" 5 per cent.	......	......	16	....	......	......	....

PELHAM AND JASPER TURNPIKE COMPANY.

March 2, 1839...........	March, 1869............	7	$ 7,000 00	390 to 396	White "A" 5 per cent.	......	......	3	3	1	......	....
September 9, 1842	September, 1872........	26	26,000 00	1364 "1389	" " "	......	......	11	11	4	......	....
July 23, 1843...........	July, 1873	11	11,000 00	1472 "1482	" " "	......	......	3	7	1	......	....
Total..............	....	44	$44,000 00	....	....	......	......	17	21	6	......	....

COLUMBIA, PULASKI AND ELKTON TURNPIKE COMPANY.

May 3, 1839	May, 1869	12	$12,000 00	436 to 447	White "A" 5 per cent.			7	3	2		
June 24, 1840	June, 1870	34	34,000 00	768 " 801	" " "			11	18	5		
May 18, 1841	May, 1871	15	15,000 00	933 " 947	" " "			5	5	5		
August 20, 1841	August, 1871	14	14,000 00	1188 " 1201	" " "			2	11	1		
September 9, 1841	September, 1871	4	4,000 00	1250 " 1253	" " "			1	3			
November 20, "	November, 1871	27	27,000 00	1268 " 1294	" " "			6	15	6		
August 6, 1842	August, 1872	8	8,000 00	1354 " 1361	" " "			4	4			
January 11, 1843	January, 1873	8	8,000 00	1421 " 1428	" " "			3	5			
June 5, 1845	June, 1875	3	3,000 00	1529 " 1531	" " "	3						
July 15, 1846	July, 1876	2	2,600 00	1585 " 1586	" " "	1		1				
Total		127	$127,600 00			4		40	64	19		

CLARKSVILLE AND RUSSELLVILLE TURNPIKE COMPANY.

March 8, 1839	March, 1869	5	$ 5,000 00	397 to 401	White "A" 5 per cent.			3		2		
December 10, 1839	December, 1869	10	10,000 09	617 " 626	" " "			7	2	1		
August 11, 1840	August, 1870	8	8,000 00	813 " 820	" " "			2	6			
November 16, 1840	November, 1870	10	10,000 00	890 " 899	" " "			1	8	1		
October 29, 1841	October, 1871	4	4,500 00	1254 " 1257	" " "			1	3			
Total		37	$37,500 00					14	19	4		

FORKED DEER TURNPIKE COMPANY.

March 25, 1839	March, 1869	7	$7,000 00	429 to 435	White "A" 5 per cent			7				

BIG HATCHIE TURNPIKE COMPANY.

June 14, 1839	June, 1869	6	$6,000 00	449 to 454	White "A" 5 per cent.			4	1	1		
November 5, 1839	November, 1869	8	8,000 00	600 " 607	" " "			5	3			
Total		14	$14,000 00					9	4	1		

GALLATIN AND CUMBERLAND TURNPIKE COMPANY.

July 10, 1839	July, 1869	1	$1,000 00	445	White "A" 5 per cent.			1				
June 24, 1840	June, 1870	3	3,000 00	761 to 763	" " "			1	2			
September 4, 1842	September, 1872	2	2,000 00	1362 " 1363	" " "			2				
Total		6	$6,000 00					4	2			

STATEMENT OF BONDS—*Continued*

NOLENSVILLE TURNPIKE COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewa Under Act of Dec. 1866, and Act o March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
August, 13, 1839	August, 1869	10	$10,000 00	456 to 465	White "A" 5 per cent.	......	......	5	3	2	......	....
September 10, 1839	September, 1869.........	4	4,000 00	481 " 484	" " "	......	......	2	2	......	......	....
June 24, 1840	June, 1870..............	14	14,000 00	747 " 760	" " "	......	......	4	10	......	......	....
November 20, 1840	November, 1870	13	13,000 00	900 " 912	" " "	......	......	2	7	4	......	....
September 9, 1841	September, 1871.........	8	8,000 00	1242 " 1249	" " "	......	......	3	5	......	......	....
Total	....	49	$49,000 00	....	....	......	......	16	27	6	......	....

ASHPORT TURNPIKE COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewa Under Act of Dec. 1866, and Act o March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
August 13, 1839	August, 1869	15	$15,000 00	466 to 480	White "A" 5 per cent.	......	......	10	5	......	......	....
November 10, 1840......	November, 1870	20	20,000 00	870 " 889	" " "	......	......	10	8	2	......	....
Total................	....	35	$35,000 00	....	....	......	......	20	13	2	......	....

FULTON TURNPIKE COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewa Under Act of Dec. 1866, and Act o March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
May 19, 1841	May, 1871..............	3	$3,000 00	948 to 950	White "A" 5 per cent.	......	......	......	3	......	......	....
June 27, 1842	June, 1872..............	3	3,000 00	1351 " 1353	" " "	......	......	......	3	......	......	....
Total................	....	6	$6,000 00	....	....	......	......	......	6	......	......	....

LEBANON AND SPARTA TURNPIKE COMPANY.

September 10, 1839	September, 1869	14	$14,000 00	485 to 498	White "A" 5 per cent.			9	4	1		
August 11, 1840	August, 1870	31	31,000 00	821 " 851	" " "			9	21	1		
December 9, 1840	December, 1870	15	15,000 00	913 " 927	" " "			4	7	4		
February 5, 1841	February, 1871	5	5,000 00	928 " 932	" " "				5			
November 10, 1841	November, 1871	10	10,000 00	1258 " 1267	" " "				10			
February 8, 1847	February, 1877	10	10,000 00	1590 " 1599	" " "	5	1	1			3	
Total		85	$85,000 00			5	1	23	47	6	3	

NASHVILLE AND KENTUCKY TURNPIKE COMPANY.

November 22, 1839	November, 1869	9	$ 9,000 00	608 to 616	White "A" 5 per cent.			5	4			
June 24, 1840	June, 1870	4	4,000 00	764 " 767	" " "			1	3			
August 27, 1841	August, 1871	13	13,000 00	1202 " 1214	" " "			5	8			
September 27, 1842	September, 1872	13	13,000 00	1390 " 1402	" " "			6	5	2		
January 12, 1843	January, 1873	8	8,000 00	1429 " 1436	" " "				7	1		
August 30, 1845	August, 1875	3	3,000 00	1532 " 1534	" " "	2					1	
Total		50	$50,000 00			2		17	27	3	1	

MURFREESBORO AND MANCHESTER TURNPIKE COMPANY.

January 30, 1845	January, 1875	8	$ 8,000 00	1521 to 1528	White "A" 5 per cent.	8						
September 10, 1845	September, 1875	25	25,000 00	1535 " 1559	" " "	24					1	
January 3, 1846	January, 1876	13	13,000 00	1560 " 1572	" " "	13						
September 23, 1846	September, 1876	3	3,900 00	1587 " 1589	" " "	3						
Total		49	$49,900 00			48					1	

HARPETH TURNPIKE COMPANY.

January 3, 1839	January, 1869	26	$26,000 00	262 to 287	White "A" 5 per cent.			10	9	7		
November 14, 1844	November, 1874	13	13,000 00	1502 " 1514	" " "	6		5			2	
Total		39	$39,000 00			6		15	9	7		

STATEMENT OF BONDS.—*Continued.*

CUMBERLAND AND STONE'S RIVER TURNPIKE COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
January 4, 1839	January, 1869	20	$20,000 00	288 to 307	White "A" 5 per cent,	......	......	11	5	4	......	.....
September 9, 1841	September, 1871	27	27,000 00	1215 " 1241	" " "	......	......	1	26	......	......	.....
December 30, 1841	December, 1871	12	12,000 00	1313 " 1324	" " "	......	......	......	11	1	......	.....
June 16, 1842	June, 1872	9	9,000 00	1342 " 1350	" " "	......	......	2	3	4	......	.....
October 22, 1842	October, 1872	18	18,000 00	1403 " 1420	" " "	......	......	2	15	1	......	.....
February 27, 1843	February, 1873	11	11,000 00	1437 " 1447	" " "	......	......	4	7	......	......	.....
August 5, 1843	August, 1873	10	10,000 00	1483 " 1492	" " "	......	......	7	3	......	......	.....
Total	......	107	$107,000 00	......	......	......	......	27	70	10	......	.....

LEBANON AND NASHVILLE TURNPIKE COMPANY.

October 5, 1837	October, 1862	10	$10,000 00	1 to 10	5¼ per cent.	......	......	10	......	......	......	.....
November, 1837	November, 1862	2	2,000 00	11 " 12	" "	......	......	2	......	......	......	.....
January, 1838	January, 1863	4	4,000 00	13 " 16	" "	......	......	4	......	......	......	.....
February, 1838	February, 1863	4	4,000 00	17 " 20	" "	......	......	4	......	......	......	.....
May, 1838	May, 1863	4	4,000 00	21 " 24	" "	......	......	2	......	2	......	.....
July, 1838	July, 1863	4	4,000 00	25 " 28	" "	......	......	3	1	......	......	.....
August, 1838	August, 1863	4	4,000 00	29 " 32	" "	......	......	4	......	......	......	.....
October, 1838	October, 1863	4	4,000 00	33 " 36	" "	......	......	4	......	......	......	.....
November, 1838	November, 1863	4	4,000 00	37 " 40	" "	......	......	3	......	1	......	.....
January 5, 1839	January, 1869	30	30,000 00	308 " 337	White "A" 5 per cent.	......	......	13	13	4	......	.....
November 1, 1843	November, 1873	5	5,000 00	1497 " 1501	" " "	......	......	1	3	1	......	.....
February 18, 1846	February, 1876	6	6,000 00	1573 " 1578	" " "	6	......	......	......	......	......	.....
Total	......	81	$81,000 00	......	......	6	......	50	17	8	......	.....

JEFFERSON TURNPIKE COMPANY.

January 7, 1839	January, 1869	6	$ 6,000 00	340 to 345	White "A" 5 per cent.	.....	.....	1	5	.....	.....	.....
September 10, 1839	September, 1869	3	3,000 00	499 " 501	" " "	.....	.....	1	2	.....	.....	.....
March 7, 1843	March, 1873	24	24,000 00	1448 " 1471	" " "	.....	.....	5	17	2	.....	.....
September 10, 1843	September, 1873	4	4,000 00	1493 " 1496	" " "	.....	.....	1	3	.....	.....	.....
December 4, 1844	December, 1874	6	6,000 00	1515 " 1520	" " "	5	1	.....	.....	.....	.....	.....
July 3, 1846	July, 1876	2	2,000 00	1583 " 1584	" " "	2	.....	.....	.....	.....	.....	.....
Total	.....	45	45,000 00	.....	.....	7	1	8	27	2	.....	.....

CARTHAGE AND HARTSVILLE TURNPIKE COMPANY.

July 30, 1856	January 1, 1868	6	$6,000 00	1 to 6	6 per cent.	....	.....	5	......	1	.....	....

CARTHAGE AND ROME TURNPIKE COMPANY.

June 14, 1861	January 1, 1868	8	$8,000 00	1 to 8	6 per cent.	2	.....	6	......	.....	.....	....

CARTHAGE, ALEXANDER AND RED SULPHUR TURNPIKE COMPANY.

July 14, 1856	January 1, 1872	16	$16,000,00	1 to 16	6 per cent	.....	.....	4	12	.....	.....	....

DYERSBURG AND MISSISSIPPI TURNPIKE COMPANY.

July 30, 1852	1892	25	$25,000 00	301 to 325	White "B" 6 per cent	25	.....	....	......	.....	.....	....

BRISTOL AND HENDRICKS' CREEK TURNPIKE COMPANY.

May 22, 1868	1900	20	$20,000 00	9215 to 9234	Green 6 per cent.	4	.....	15	......	.....	.....	1

ROGERSVILLE AND LITTLE WAR GAP TURNPIKE COMPANY.

March 28, 1868	1900	15	$15,000 00	2531 to 2545	Green "B" 6 per cent.	2	.....	13	......	.....	.....	....
February 3, 1868	1900	5	5,000 00	2983 " 2987	" " " "	....	.....	5	......	.....	.....	....
Total,	.....	20	$20,000 00	....	.....	2	.....	18	—	.....	.....	....

STATEMENT OF BONDS.—*Continued.*

NEW MARKET TURNPIKE COMPANY.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
February 3, 1868	1900	15	$15,000 00	3968 to 3982	Green "B" 6 per cent.	2	....	13	......	....	....	....

JACKSBORO AND POWELL'S VALLEY TURNPIKE COMPANY.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
October 8, 1869	1900	5	$5,000 00	8784 to 8788	Green 6 per cent.	1	....	4	......	....	....	....
" "	1900	3	3,000 00	4049 " 4051	" "B" 6 per cent.	....	....	3	......	....	....	....
Total		8	$8,000 00			1	....	7	......	....	....	....

MULBERRY AND ROGERSVILLE TURNPIKE COMPANY.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
May 18, 1870	1900	50	$50,000 00	4848 to 4897	Green "B" 6 per cent.	3	....	47	......	....	....	....

MANSKER'S CREEK AND SPRINGFIELD TURNPIKE COMPANY.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
July 1, 1854	July, 1864	10	$10,000 00	1 to 10	6 per cent	....	....	10	......	....	....	....

EAST TENNESSEE AND GEORGIA RAILROAD COMPANY.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
August 21, 1849	August, 1879	27	$ 27,000 00	1692 to 1718	White "A" 5 "	20	4	3	....	......	......	.....
November 19, 1849	November, 1879	46	46,000 00	1719 " 1764	" 5 "	35	4	4	....	......	3	.....
May 15, 1850	May, 1880	21	21,000 00	1765 " 1785	" 5 "	20	......	......	....	......	1	.....
September 9, 1850	September, 1880	31	31,000 00	1786 " 1816	" 5 "	22	6	3	....	......	......	.....
December 21, 1850	December, 1880	33	33,000 00	1817 " 1849	" 5 "	28	5	......	....	......	......	.....
June 30, 1851	June 1881	18	18,000 00	1850 " 1867	" 5 "	15	......	3	....	......	......	.....
November 20, 1851	November, 1881	25	25,000 00	1868 " 1892	" 5 "	12	......	7	....	......	6	.....
....	....	1	1,000 00	1966 "	" 5 "	......	1	......	....	......	......	.....
September 7, 1850	July, 1890	150	150,000 00	1 " 150	White. 6 "	117	16	8	....	......	9	.....
March 3, 1851	" "	100	100,000 00	151 " 250	" 6 "	84	5	3	4	......	4	.....

May 26, 1851	July, 1890	100	100,000 00	251 to 350	White 6 per cent.	97	2				1	
July 30, 1853	1892	20	20,000 00	726 " 745	" "B" 6 "	17		3				
December 7, 1853	"	130	130,000 00	746 " 875	" " 6 "	87	17	22	1		3	
April 10, 1853	"	20	20,000 00	876 " 895	" " 6 "	18		2				
June 22, 1854	"	20	20,000 00	896 " 915	" " 6 "	16	3	1				
November 8, 1854	"	290	290,000 00	1216 " 1505	" " 6 "	189	16	66	12		3	4
March 27, 1855	"	40	40,000 00	1975 " 2014	" " 6 "	26	4	6	4			
May 31, 1858	"	100	100,000 00	6681 " 6780	" " 6 "	73	10	9	1		4	3
March 11, 1859	1898	100	100,000 00	8517 " 8616	" " 6 "	57	8	35				
September 9, 1859	"	92	92,000 00	9982 "10073	" " 6 "	68	19	5				
October 17, 1866	1892	250	250,000 00	4665 " 4914	Green 6 "	52	15	175			1	7
Total		1614	$1,614,000 00			1053	135	355	22		35	14

HIWASSEE RAILROAD COMPANY.

November 3, 1838	November, 1868	97	$97,000 00	2 to 98	White "A" 5 per cent.			70	19	8		
September 10, 1839	September, 1869	98	98,000 00	502 " 599	" " 5 "			38	46	14		
January 18, 1840	January, 1870	65	65,000 00	633 " 697	" " 5 "			16	23	26		
May 20, 1841	May, 1871	97	97,000 00	988 " 1084	" " 5 "			14	48	35		
April 1, 1847	April, 1877	79	79,000 00	1000 " 1678	" " 5 "	48	16	13			2	
November 15, 1847	November, 1877	13	13,000 00	1679 " 1691	" " 5 "	11		2				
Total		449	$449,000 00			59	16	153	136	83	2	

MEMPHIS AND CHARLESTON RAILROAD COMPANY.

January, 1853	1892	240	$240,000 00	326 to 565	White "B" 6 per cent.	188	10	35	3		3	1
January 3, 1853	"	160	160,000 00	566 " 725	" " 6 "	108	12	36	3			1
November 28, 1854	"	200	200,000 00	1506 " 1705	" " 6 "	124	16	37	6		15	2
May 22, 1855	"	40	40,000 00	2015 " 2054	" " 6 "	25	6	8			1	
" "	"	100	100,000 00	2055 " 2154	" " 6 "	62	8	26	2		1	1
November 28, 1855	"	20	20,000 00	3093 " 3112	" " 6 "	10	2	7				1
March 21, 1856	"	135	135,000 00	3403 " 3537	" " 6 "	79	13	36	1		4	2
June 17, 1856	"	50	50,000 00	4222 " 4271	" " 6 "	26	1	22				1
" "	"	50	50,000 00	4392 " 4441	" " 6 "	36	4	9			1	
September 29, 1856	"	105	105,000 00	4492 " 4596	" " 6 "	76	7	21				1
April 17, 1866	"	200	200,000 00	962 " 1161	Green 6 "	42	4	154				
June 27, 1866	"	100	100,000 00	3360 " 3459	" 6 "	3	5	87				
October 20, 1868	1900	300	300,000 00	3668 " 3967	" "B" 6 "	21	17	261				1
Total		1700	$1,700,000 00			805	105	739	15		25	11

STATEMENT OF BONDS.—*Continued.*

EAST TENNESSEE AND VIRGINIA RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
July 27, 1852	1892	10	$ 10,000 00	1 to 10	White "B" 6 per cent.	10	......	......	......	......	......	......
August 9, 1852	"	290	290,000 00	11 " 300	" " 6 "	205	28	41	13	......	3	......
January 29, 1855	"	269	269,000 00	1706 " 1974	" " 6 "	177	25	48	13	......	2	4
November 7, 1855	"	100	100,000 00	2993 " 3092	" " 6 "	68	6	22	3	......	1	......
January 17, 1856	"	100	100,000 00	3133 " 3232	" " 6 "	41	8	50	......	......	......	1
July 15, 1856	"	120	120,000 00	4272 " 4391	" " 6 "	86	9	21	......	......	4	......
November 18, 1856	"	55	55,000 00	4841 " 4895	" " 6 "	31	5	17	1	......	1	......
March 3, 1857	"	195	195,000 00	5048 " 5242	" " 6 "	136	11	43	1	......	2	2
June 8, 1857	"	150	150,000 00	5303 " 5452	" " 6 "	93	9	46	......	......	1	1
October 12, 1857	"	70	70,000 00	5793 " 5862	" " 6 "	44	7	16	......	......	1	2
February 4, 1858	"	100	100,000 00	5988 " 6087	" " 6 "	54	11	31	......	......	1	3
April 7, 1858	"	100	100,000 00	6120 " 6219	" " 6 "	63	8	29	......	......	......	......
June 10, 1858	"	43	43,000 00	7088 " 7130	" " 6 "	29	1	1	1	......	1	......
April 26, 1866	"	300	300,000 00	1396 " 1695	Green " 6 "	86	20	192	......	......	......	2
February 14, 1867	"	300	300,000 00	6033 " 6332	" " 6 "	77	36	182	......	......	1	4
Total	......	2002	$2,202,000 00	......	......	1200	184	749	32	......	18	19

LOUISVILLE AND NASHVILLE RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
April 30, 1855	1892	50	$ 50,000 00	6270 to 6319	White "B" 6 per cent.	38	2	9	......	......	1	......
" "	"	150	150,000 00	6424 " 6573	" " 6 "	88	16	39	1	......	2	4
" "	"	100	100,000 00	6574 " 6673	" " 6 "	63	16	20	......	......	......	1
July 15, 1859	1898	150	150,000 00	9302 " 9451	" " 6 "	98	12	32	......	......	3	5
April 20, 1861	"	5	5,000 00	1582 " 1586	" "C" 6 "	5	......	......	......	......	......	......
Total	......	455	$455,000 00	......	......	292	46	100	1	......	6	10

2543

LAGRANGE AND MEMPHIS RAILROAD COMPANY.

October, 1837	October, 1862	30	$ 30,000 00	1 to 30		5¼ per cent.			30				
“ “	“ “	1	1,250 00	31		“ “			1				
“ 1838	“ 1863	30	30,000 00	32 to 61		“ “			27		3		
“ “	“ “	1	1,250 00	62		“ “			1				
March, 1839	March, 1864	30	30,000 00	63 to 92		“ “			20		10		
“ “	“ “	1	1,250 00	93		“ “			1				
September, 1839	September, 1864	15	30,000 00	94 to 108		“ “			14		1		
“ “	“ “	1	1,250 00	109		“ “			1				
		1	1,000 00	210		“ “			1				
November 15, 1840	November, 1870	18	18,750 00	852 to 869	White “A”	5 “			10	7	1		
May 19, 1841	May, 1871	37	37,500 00	951 to 987	“	5 “			7	26	4		
December 21, 1841	December, 1871	18	18,000 00	1295 “ 1312	“	5 “			12		6		
May 14, 1842	May, 1872	17	17,000 00	1325 “ 1341	“	5 “			7	5	5		
Total		200	$217,250 00						132	38	30		

McMINNVILLE AND MANCHESTER RAILROAD COMPANY

July 24, 1855	1892	300	$ 300,000 00	2553 to 2852	White “B”	6 per cent.	188	18	79	6		7	2
“ 19, 1856	“	20	20,000 00	4472 “ 4491	“ “	6 “	13	1	5			1	
November 19, 1856	“	52	52,000 00	4896 “ 4947	“ “	6 “	37	4	9	1			1
April 4, 1856	“	346	346,000 00	316 “ 661	Green	6 “	91	10	243			1	1
June 26, 1856	“	54	54,000 00	3306 “ 3359	“	6 “	18	5	31				
Total		772	$772,000 00				347	38	367	7		9	4

TENNESSEE AND ALABAMA RAILROAD COMPANY.

July 4, 1854	1892	200	$ 200,000 00	916 to 1115	White “B”	6 per cent.	108	35	42	12		1	2
September 9, 1854	“	100	100,000 00	1116 “ 1215	“ “	6 “	58	17	11	9		4	1
January 16, 1858	“	17	17,000 00	5971 “ 5987	“ “	6 “	7	1	6	3			
April 28, 1858	“	50	50,000 00	6220 “ 6269	“ “	6 “	11	14	24	1			
May 3, 1858	“	104	104,000 00	6320 “ 6423	“ “	6 “	71	8	25				
June 4, 1858	“	68	68,000 00	6781 “ 6848	“ “	6 “	5	2	60			1	
“ “ “	“	232	232,000 00	6849 “ 7080	“ “	6 “	141	23	57	1		4	6
August 27, 1858	1898	32	32,000 00	8080 “ 8111	“ “	6 “	7	2	22				1
“ 27, 1858	“	43	43,000 00	8112 “ 8154	“ “	6 “	29	5	8			1	
March 15, 1859	“	13	13,000 00	8617 “ 8629	“ “	6 “	8	2	3				
December 15, 1859	“	14	14,000 00	10308 “ 10321	“ “	6 “	9		5				
June 14, 1866	1892	200	200,000 00	2896 “ 3095	Green	6 “	3	2	195				
“ 21, 1866	“	100	100,000 00	3206 “ 3305	“	6 “			99				1
Total		1173	$1,173,000 00				457	111	557	26		11	11

STATEMENT OF BONDS.—*Continued.*

CENTRAL SOUTHERN RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
August 25, 1858	1892	28	$ 128,000 00	7781 to 7908	White "B" 6 per cent.	91	13	23	1	......	......	.....
" " "	1898	171	171,000 00	7909 " 8079	" " 6 "	105	25	40		......	......	1
September 9, 1859	"	13	13,000 00	9009 " 9981	" " 6 "	8	2	3	....	......	......	.....
January 18, 1860	"	13	13,000 00	10602 " 10614	" " 6 "	13	......	......	....	......	......	.....
May 9, 1860	"	176	176,000 00	11019 " 11194	" " 6 "	110	16	45	....	......	5	.....
January 9, 1861	"	20	20,000 00	1219 " 1238	" "C" 6 "	20	......	......	....	......	......	.....
May 28, 1866	1892	75	75,000 00	2471 " 2545	Green 6 "	10	3	61	....	......	......	1
Total		596	$596,000 00			357	59	172	1	......	5	2

MEMPHIS AND OHIO RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
May 21, 1855	1892	300	$300,000 00	2155 to 2454	White "B" 6 per cent.	175	30	85	....	......	6	4
July 11, "	"	40	40,000 00	2455 " 2494	" " 6 "	31	1	5	1	......	1	1
November 28, 1855	"	20	20,000 00	3113 " 3132	" " 6 "	13	1	3	....	......	3	.....
January 1, 1856	"	100	100,000 00	2893 " 2992	" " 6 "	72	6	16	....	......	3	3
February 29, 1856	"	170	170,000 00	3233 " 3402	" " 6 "	91	11	66	....	......	2	.....
April 3, 1857	"	40	40,000 00	5243 " 5282	" " 6 "	30	1	9	....	......	......	.....
July 26, 1858	"	200	200,000 00	7581 " 7780	" " 6 "	131	10	52	1	......	3	3
December 17, 1858	1898	120	120,000 00	8175 " 8294	" " 6 "	76	10	28	....	......	4	2
January 31, 1859	"	30	30,000 00	8368 " 8397	" " 6 "	23	1	6	....	......	......	.....
May 2, 1859	"	150	150,000 00	8630 " 8779	" " 6 "	97	12	36	1	......	......	4
July 4, 1859	"	150	150,000 00	9152 " 9301	" " 6 "	113	6	29	....	......	......	2
September 2, 1859	"	100	100,000 00	9862 " 9961	" " 6 "	80	4	15	....	......	......	1
" 5, 1859	"	7	7,000 00	9962 " 9968	" " 6 "	7	......	......	....	......	......	.....
December 14, 1859	"	57	57,000 00	10251 " 10307	" " 6 "	33	4	19	....	......	1	.....
January 19, 1860	"	13	13,000 00	10615 " 10627	" " 6 "	6	4	3	....	......	......	.....
" " "	"	2	2,000 00	10639 " 10640	" " 6 "	2	......	......	....	......	......	.....
April 11, 1866	1892	150	150,000 00	662 " 811	Green 6 "	42	12	95	....	......	1	.....
June 1, 1866	"	150	150,000 00	2646 " 2795	" 6 "	42	9	95	....	......	1	2
December 21, 1866	"	200	200,000 00	5256 " 5455	" 6 "	85	8	105	....	......	1	1
Total		1999	$1,999,000 00			1149	130	667	3	......	27	23

MISSISSIPPI AND TENNESSEE RAILROAD COMPANY.

July 24, 1855	1892	58	$ 58,000 00	2405 to 2462	White "B" 6 per cent.	30	5	14				
" " "	"	40	40,000 00	2853 " 2892	" " 6 "	22	5	11			1	1
May 3, 1866	"	50	50,000 00	1946 " 1995	Green 6 "	5	3	42				
December 15, 1866	"	150	150,000 00	5106 " 5255	" 6 "	17	1	130				2
January 14, 1868	1900	40	40,000 00	716 " 755	" "B" 6 "	3	3	33			1	
" 15, "	"	55	55,000 00	756 " 810	" " 6 "	14	3	38				
" " "	"	5	5,000 00	831 " 835	" " 6 "			5				
Total		398	$398,000 00			100	20	273			2	3

WINCHESTER AND ALABAMA RAILROAD COMPANY.

June 9, 1858	1892	7	$ 7,000 00	7081 to 7087	White "B" 6 per cent.	6		1				
May 10, 1858	"	7	7,000 00	6674 " 6680	" " 6 "	1	2	4				
July 22, 1858	"	150	150,000 00	7431 " 7580	" " 6 "	95	10	38			2	5
December 30, 1858	1898	2	2,000 00	8325 " 8326	" " 6 "	2						
January 31, 1859	"	11	11,000 00	8327 " 8337	" " 6 "	7	2	1			1	
" " "	"	5	5,000 00	8338 " 8342	" " 6 "	4		1				
" " "	"	2	2,000 00	8366 " 8367	" " 6 "	1		1				
" " "	"	93	93,000 00	8398 " 8490	" " 6 "	66	4	21				2
June 21, 1859	"	136	136,000 00	8976 " 9111	" " 6 "	88	10	37			1	
February 23, 1860	"	20	20,000 00	10774 " 10793	" " 6 "	14	1	3			2	
June 29, 1863	1892	250	250,000 00	3460 " 3709	Green 6 "	45	17	185			1	2
July 13, 1866	"	122	122,000 00	3906 " 4117	" 6 "	30	8	78			1	5
April 10, 1867	"	150	150,000 00	7551 " 7700	" 6 "	37	5	106				2
December 11, 1867	1890	34	34,000 00	8513 " 8546	" 6 "	4	1	29				
January 30, 1866	"	300	300,000 00	1761 " 2060	" "B" 6 "	43	14	231			6	6
Total		1289	$1,289,000 00			443	74	736			14	22

STATEMENT OF BONDS.—*Continued.*

MEMPHIS, CLARKSVILLE AND LOUISVILLE RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
March. 18, 1858	1892	20	$ 20,000 00	6100 to 6119	White "B" 6 per cent.	14	2	4				
December 20, 1858	1898	10	10,000 00	8295 " 8304	" " 6 "	6	3	1				
June 27, 1859	"	40	40,000 00	9112 " 9151	" " 6 "	28	5	6			1	
July 9, 1859	"	300	300,000 00	9552 " 9851	" " 6 "	189	40	60			5	6
October 6, 1859	"	20	20,000 00	10091 " 10110	" " 6 "	12	3	4				1
December 3, 1859	"	20	20,000 00	10231 " 10250	" " 6 "	17		2			1	
May 1, 1860	"	100	100,000 00	10839 " 10938	" " 6 "	66	5	23	1		1	4
June 27, 1860	"	169	169,000 00	11226 " 11394	" " 6 "	98	16	45	1		3	6
July 26, 1860	"	40	40,000 00	11645 " 11684	" " 6 "	24	5	9			2	
" " "	"	20	20,000 00	11685 " 11704	" " 6 "	11	6	2				1
September 22, 1860	"	20	20,000 00	517 " 536	" "C" 6 "	9	2	6				3
October 23, 1860	"	180	180,000 00	537 " 716	" " 6 "	116	9	51	2		1	1
December 5, 1860	"	20	20,000 00	1009 " 1028	" " 6 "	14	2	4				
February 26, 1861	"	83	83,000 00	1489 " 1571	" " 6 "	51	8	21			2	1
May 27, 1866	1892	40	40,000 00	1 " 40	Green 6 "	10	4	26				
April 14, 1866	"	150	150,000 00	812 " 961	" 6 "	33	6	108			1	2
April 19, 1866	"	64	64,000 00	1162 " 1225	" 6 "	13	2	47			1	1
May 8, 1866	"	50	50,000 00	2196 " 2245	" 6 "	8	14	28				
June 13, 1866	"	100	100,000 00	2796 " 2895	" 6 "	22	4	74				
July 12, 1866	"	136	136,000 00	3860 " 3995	" 6 "	31	11	92			1	1
Total		1582	$1,582,000 00			772	147	613	4		19	27

EDGEFIELD AND KENTUCKY RAILROAD COMPANY.

April 4, 1857	1892	20	$ 20,000 00	5283 to 5302	White “B” 6 per cent.	15	4	1	......	......	......	......
June 24, 1857	“	20	20,000 00	5453 “ 5472	“ “ 6 “	7	6	7	......	......	......	......
August 13, 1857	“	20	20,000 00	5473 “ 5492	“ “ 6 “	16	3	1	......	......	......	......
October 17, 1857	“	40	40,000 00	5863 “ 5902	“ “ 6 “	28	8	4	......	......	......	......
March 10, 1857	“	12	12,000 00	6088 “ 6099	“ “ 6 “	3	2	6	......	......	......	1
June 11, 1857	“	300	300,000 00	7131 “ 7430	“ “ 6 “	196	29	69	2	......	2	2
September 29, 1857	1898	20	20,000 00	8155 “ 8174	“ “ 6 “	19	1	......	......	......	......	......
December 28, 1857	“	20	20,000 00	8305 “ 8324	“ “ 6 “	13	2	5	......	......	......	......
February 12, 1857	“	26	26,000 00	8491 “ 8516	“ “ 6 “	16	2	6	......	......	1	1
May 24, 1857	“	180	180,000 00	8780 “ 8959	“ “ 6 “	110	14	52	......	......	1	3
June 9, 1857	“	16	16,000 00	8969 “ 8975	“ “ 6 “	9	......	6	......	......	1	......
March 10, 1858	1892	27	27,000 00	7000 “ 7027	“ “ 6 “	25	1	1	......	......	......	......
August 30, 1859	“	10	10,000 00	9852 “ 9861	“ “ 6 “	8	2	......	......	......	......	......
September 30, 1859	“	17	17,000 00	10074 “ 10090	“ “ 6 “	14	1	2	......	......	......	......
October 27, 1859	“	20	20,000 00	10211 “ 10230	“ “ 6 “	15	3	1	1	......	......	......
January 21, 1860	“	11	11,000 00	10628 “ 10638	“ “ 6 “	9	......	2	......	......	......	......
January 22, 1860	“	51	51,000 00	10641 “ 10691	“ “ 6 “	41	4	6	......	......	......	......
April 16, 1860	“	45	45,000 00	10794 “ 10838	“ “ 6 “	19	2	23	......	......	......	1
April 23, 1866	“	115	115,000 00	1226 “ 1340	Green 6 “	35	7	72	......	......	1	......
June 20, 1866	“	110	110,000 00	3096 “ 3205	“ 6 “	24	5	80	......	......	......	1
January 14, 1868	1900	5	5,000 00	711 “ 715	“ “B” 6 “	3	1	1	......	......	......	......
“ “ “	“	20	20,000 00	811 “ 830	“ “ 6 “	3	3	13	......	......	......	1
January 23, 1868	“	75	75,000 00	1486 “ 1560	“ “ 6 “	11	14	46	......	......	......	4
Total	......	1180	$1,180,000 00	......	......	639	114	404	3	......	6	14

RÓGERSVILLE AND JEFFERSON RAILROAD COMPANY.

January 28, 1859	1898	23	$ 23,000 00	8343 to 8365	White “B” 6 per cent.	16	1	6	......	......	......	......
July 7, 1859,	“	100	100,000 00	9452 “ 9551	“ “ 6 “	67	8	23	......	......	1	1
August 1, 1860,	“	36	36,000 00	11705 “ 11740	“ “ 6 “	18	2	13	......	......	1	2
April 24, 1866	1892	55	55,000 00	1341 “ 1395	Green 6 “	13	4	38	......	......	......	......
May 29, 1866	“	100	100,000 00	2546 “ 2645	“ 6 “	20	6	71	......	......	1	2
November 30, 1866	“	41	41,000 00	4915 “ 4955	“ 6 “	18	1	21	......	......	......	1
March 28, 1868	1900	30	30,000 00	2501 “ 2530	“ “B” 6 “	7	......	19	......	......	......	4
Total	......	385	$385,000 00	......	......	159	22	191	......	......	3	10

STATEMENT OF BONDS.—*Continued.*

MOBILE AND OHIO RAILROAD COMPANY.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
June 17, 1856	1892	300	$ 300,000 00	3886 to 4185	White “B” 6 per cent.	248	15	26	7	......	3	1
“ “ “	“	36	36,000 00	4186 “ 4221	“ “ 6 “ “	25	2	5	2	......	1	1
December 12, 1856	“	100	100,000 00	4948 “ 5047	“ “ 6 “ “	86	11	2	......	......	1	......
August 28, 1857	“	270	270,000 00	5523 “ 5792	“ “ 6 “ “	174	28	57	1	......	5	5
November 16, 1857	“	68	68,000 00	5903 “ 5970	“ “ 6 “ “	44	3	17	......	......	2	2
October 6, 1859	1898	100	100,000 00	10111 “ 10210	“ “ 6 “ “	72	10	13	3	......	2	......
July 10, 1860	“	100	100,000 00	11545 “ 11644	“ “ 6 “ “	69	5	23	......	......	3	......
September 17, 1860	“	150	150,000 00	367 “ 516	“ “C” 6 “ “	92	14	42	......	......	2	......
June 11, 1861	“	172	172,000 00	1707 “ 1878	“ “ 6 “ “	124	14	34	......	......	......	......
Total	......	1296	$1,296,000 00	......	......	934	102	219	13	......	19	9

KNOXVILLE AND KENTUCKY RAILROAD COMPANY.

Date of Issuance.	Date of Maturity.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
May 7, 1860	1892	80	$ 80,000 00	10939 to 11018	White “B” 6 per cent.	46	7	22	1	......	2	2
November17, 1860	“	100	100,000 00	909 “ 1008	“ “C” 6 “	46	6	44	......	......	1	3
April 27, 1866	1892	250	250,000 00	1696 “ 1945	Green 6 “	74	13	159	1	......	1	2
July 23, 1866	“	250	250,000 00	4293 “ 4542	“ 6 “	71	8	166	......	......	1	4
January 3, 1867	“	110	110,000 00	5794 “ 5903	“ 6 “	35	4	70	1	......	......	......
“ “ “	“	20	20,000 00	5904 “ 5923	“ 6 “	4	2	14	......	......	......	......
February 14, 1867	“	100	100,000 00	6333 “ 6432	“ 6 “	17	12	67	......	......	1	3
March 2, 1867	“	100	100,000 00	6610 “ 6709	“ 6 “	19	7	72	......	......	......	2
April 1, 1867	“	300	300,000 00	7019 “ 7318	“ 6 “	69	37	190	......	......	2	2
October 8, 1867	“	110	110,000 00	8361 “ 8470	“ 6 “	24	9	76	......	......	......	1
March 6, 1869	1900	67	67,000 00	8564 “ 8630	“ 6 “	1	3	55	......	......	......	8
“ “ “	“	63	63,000 00	8651 “ 8713	“ 6 “	3	2	57	......	......	1	......
January 8, 1868	“	150	150,000 00	351 “ 500	“ “B” 6 “	14	4	122	......	......	......	10
January 24, 1868	“	350	350,000 00	986 “ 1335	“ “ 6 “	50	14	279	......	......	1	6
February 20, 1868	“	300	300,000 00	2201 “ 2500	“ “ 6 “	28	8	252	......	......	3	9
Total	......	2350	$2,350,000 00	......	......	501	136	1645	3	......	13	52

CINCINNATI, CUMBERLAND GAP AND CHARLESTON RAILWAY COMPANY.

August 3, 1860	1898	66	$ 66,000 00	11741 to 11806	White "B"	6 per cent.	44	4	16	....	......	......	2
" "	"	66	66,000 00	1 " 66	" "C"	6 "	44	8	11	1	......	2	......
July 19, 1866	1892	100	100,000 00	4193 " 4292	Green	6 "	34	4	62	....	......	......	......
August 22, 1866	"	122	122,000 00	4543 " 4664	"	6 "	24	5	90	....	......	1	2
December 12, 1866	"	100	100,000 00	5006 " 5105	"	6 "	24	8	61	....	......	6	1
February 21, 1867	"	167	167,000 00	6434 " 6600	"	6 "	27	7	127	....	......	1	5
April 25, 1867	"	333	333,000 00	7701 " 8033	"	6 "	76	24	226	....	......	3	4
May 1, 1868	1900	97	97,000 00	9041 " 9137	"	6 "	10	6	79	....	......	......	2
January 31, 1868	"	100	100,000 00	1561 " 1660	" "B"	6 "	13	1	70	....	......	13	3
" " "	"	100	100,000 00	1661 " 1760	" "	6 "	9	9	78	....	......	2	2
May 1, 1868	"	122	122,000 00	2696 " 2817	" "	6 "	15	4	95	....	......	2	6
Total	....	1373	$1,373,000 00	....	....		320	80	915	1	......	30	27

KNOXVILLE AND CHARLESTON RAILROAD COMPANY.

January 3, 1867	1892	77	$ 77,000 00	5924 to 6000	Green	6 per cent.	37	6	34	....	......	......	......
April 1, 1867	"	82	82,000 00	7319 " 7400	"	6 "	8	7	64	....	......	1	2
April 29, 1867	"	100	100,000 00	7401 " 7500	"	6 "	17	6	77	....	......	......	......
" " "	"	41	41,000 00	7501 " 7541	"	6 "	9	1	30	....	......	......	1
October 8, 1867	1900	25	25,000 00	8471 " 8495	"	6 "	4	1	20	....	......	......	......
February 20, 1868	"	100	100,000 00	8834 " 8933	"	6 "	15	7	76	....	......	......	2
" " "	"	50	50,000 00	8934 " 8983	"	6 "	5	1	41	....	......	2	1
March 12, 1868	"	25	25,000 00	8984 " 9008	"	6 "	6	3	16	....	......	......	......
May 7, 1868	"	60	60,000 00	9138 " 9197	"	6 "	2	11	47	....	......	......	......
January 26, 1868	"	150	150,000 00	1336 " 1485	" "B"	6 "	33	16	91	....	......	3	7
Total	....	710	$710,000 00	....	....		136	59	496	....	......	6	13

2550
2348

STATEMENT OF BONDS.—*Continued.*

NASHVILLE AND NOTHWESTERN RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
December 23, 1859	1898	280	$280 000 00	10322 to 10601	White “B” 6 per cent.	175	25	71	1	......	6	2
June 13, 1860	“	50	50,000 00	11395 “ 11444	“ “ 6 “	31	4	15	....	......	......	.....
“ 27, “	“	100	100,000 00	11445 “ 11544	“ “ 6 “	74	2	20	1	......	3	.....
August 11, 1860	“	130	130,000 00	67 “ 196	“ “C” 6 “	70	11	44	1	......	3	1
September 14, 1860	“	170	170,000 00	197 “ 366	“ “ 6 “	108	20	38	1	......	1	2
October 29, 1860	“	165	165,000 00	717 “ 881	“ “ 6 “	108	12	43	....	......	2	.....
December 18, 1860	“	190	190,000 00	1029 “ 1218	“ “ 6 “	125	16	46	....	......	2	1
January 29, 1861	“	120	120,000 00	1239 “ 1358	“ “ 6 “	92	6	20	....	......	1	1
February 23, “	“	130	130,000 00	1359 “ 1488	“ “ 6 “	89	14	24	....	......	2	1
April 22, “	“	120	120,000 00	1587 “ 1706	“ “ 6 “	87	6	23	....	......	3	1
“ 4, 1866	1892	275	275,000 00	41 “ 315	Green 6 “	107	30	132	....	......	1	5
May 12, “	“	225	225,000 00	2246 “ 2470	“ 6 “	64	21	138	....	......	1	1
July 6, “	“	150	150,000 00	3710 “ 3859	“ 6 “	34	10	104	....	......	1	1
“ 17, “	“	75	75,000 00	4118 “ 4192	“ 6 “	11	3	58	....	......	1	2
December 6, 1866	“	50	50,000 00	4956 “ 5005	“ 6 “	7	3	39	....	......	......	1
January 2, 1867	“	200	200,000 00	5594 “ 5793	“ 6 “	70	12	117	....	......	......	1
March 23, “	“	25	25,000 00	6711 “ 6735	“ 6 “	1	3	21	....	......	......	.....
“ 27, “	“	125	125,000 00	6892 “ 7016	“ 6 “	22	7	93	....	......	1	2
June 25, “	“	92	92,000 00	8202 “ 8293	“ 6 “	11	5	73	....	......	......	3
December 27, 1867	1900	100	100,000 00	101 “ 200	“ “B” 6 “	18	2	78	....	......	2	.....
July 17, 1868	“	43	43,000 00	3118 “ 3160	“ “ 6 “	5	4	34	....	......	......	.....
“ 29, “	“	207	207,000 00	3161 “ 3367	“ “ 6 “	29	5	163	....	......	......	10
“ 29, “	“	100	100,000 00	3368 “ 3467	“ “ 6 “	9	1	88	....	......	......	2
“ “ “	“	100	100,000 00	3568 “ 3667	“ “ 6 “	8	4	88	....	......	......	.....
Total	....	3222	$3,222,000 00	....	....	1355	226	1570	4	......	30	37

NASHVILLE AND CHATTANOOGA RAILROAD COMPANY.

February 20, 1860	1898	82	$ 82,000 00	10692 to 10773	White “B” 6 per cent.	54	14	12	1		1	
May 30, 1860	“	31	31,000 00	11195 “ 11225	“ “ 6 “	10	2	17	1		1	
November 16, 1860	“	27	27,000 00	882 “ 908	“ “C” 6 “	18	7	2				
March 2, 1861	“	10	10,000 00	1572 “ 1581	“ “ 6 “	2		8				
December 27, 1866	1892	125	125,000 00	5461 “ 5585	Green 6 “	21	6	95			1	2
May 9, 1867	“	120	120,000 00	8041 “ 8160	“ 6 “	6	7	103				4
Total		395	$395,000 000			111	36	247	2		3	6

TENNESSEE AND PACIFIC RAILROAD COMPANY.

August 17, 1869	1900	57	$ 57,000 00	8714 to 8770	Green 6 per cent.	1		56				
“ “ “	“	10	10,000 00	8774 “ 8783	“ 6 “			10				
July 10, “	“	45	45,000 00	8789 “ 8833	“ 6 “	8		37				
August 17, “	“	168	168,000 00	9345 “ 9512	“ 6 “	16	2	149			1	
October 27, “	“	138	138,000 00	9540 “ 9677	“ 6 “	17	5	115			1	
June 18, “	“	20	20,000 00	9831 “ 9850	“ 6 “			20				
October 9, “	“	20	20,000 00	9981 “10000	“ 6 “	2	18					
“ 2, “	“	251	251,000 00	4052 “ 4302	“ “B” 6 “	20	6	225				
“ 9, “	“	197	197,000 00	4303 “ 4499	“ “ 6 “	3		194				
December 7 “	“	279	279,000 00	4500 “ 4798	“ “ 6 “	1		278				
Total		1185	$1,185,000 00			68	31	1084			2	

MISSISSIPPI CENTRAL RAILROAD COMPANY.

May 22, 1856	1892	300	$300,000 00	3586 to 3885	White “B” 6 per cent.	186	17	87	4		5	1
November 15, 1856	“	244	244,000 00	4597 “ 4840	“ “ 6 “	170	19	47	4		4	
August 28, 1857	“	30	30,000 00	5493 “ 5522	“ “ 6 “	19	3	8				
May 7, 1866	“	200	200,000 00	1996 “ 2195	Green 6 “	33	4	159				4
March 27, 1867	“	150	150,000 00	6742 “ 6891	“ 6 “	29	19	99				3
December 30, 1867	1900	100	100,000 00	1 “ 100	“ “B” 6 “	13	2	85				
“ 31, “	“	100	100,000 00	201 “ 300	“ “ 6 “	21		79				
Total		1124	$1,124,000 00			471	64	564	8		9	8

SOUTHERN RAILROAD COMPANY, *(Southwestern.)*

September 7, 1869	1900	27	$ 27,000 00	9513 to 9539	Green 6 per cent.	6		21				
July 12, “	“	30	30,000 00	9866 “ 9895	“ 6 “			30				
June 27, 1868	“	300	300,000 00	2818 “ 3117	“ “B” 6 “	45	16	225			2	12
August 16, 1869	“	30	30,000 00	3988 “ 4017	“ “ 6 “	5		25				
September 30, 1869	“	31	31,000 00	4018 “ 4048	“ “ 6 “		1	30				
January 28, 1870	“	69	69,000 00	4779 “ 4847	“ “ 6 “	5		64				
“ 25, “	“	16	16,000 00	5129 “ 5144	“ “ 6 “	1		15				
Total		503	$503,000 00			62	17	410			2	12

STATEMENT OF BONDS.—*Continued.*

EAST TENNESSEE AND WESTERN NORTH CAROLINA RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
June 5, 1869........	1900..................	150	$150,000 00	9681 to 9830	Green 6 per cent.	8	......	142	......	......	......	.....
April 28, 1868........	"	150	150,000 00	2546 " 2695	" "B" 6 "	15	6	124	......	......	1	4
July 30, "	"	100	100,000 00	3498 " 3567	" " 6 "	10	2	88	......	......	......	.....
Total........	....	400	$400,000 00	....	....	33	8	354	......	......	1	4

MINERAL HOME RAILROAD COMPANY, (REJECTED.)

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
October 2, 1869........	1900..................	15	$ 15,000 00	9851 to 9865	Green 6 per cent.	......	......	15	......	......	......	.....
" " "	"	85	85,000 00	9896 " 9980	" 6 "	......	......	85	......	......	......	.....
Total........	....	100	$100,000 00	....	....	......	......	100	......	......	......	.....

EVANSVILLE, HENDERSON AND NASHVILLE RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
January 8, 1868........	1900..................	50	$50,000 00	301 to 350	Green "B" 6 per cent.	7	1	42	......	......	......	.....
" 16, "	"	68	68,000 00	836 " 903	" " 6 "	9	3	56	......	......	......	.....
" 17, "	"	32	32,000 00	904 " 935	" " 6 "	3	1	28	......	......	......	.....
" 18, "	"	50	50,000 00	936 " 985	" " 6 "	3	2	45	......	......	......	.....
Total........	....	200	$200,000 00	....	....	22	7	171	......	......	......	.....

NASHVILLE AND DECATUR RAILROAD COMPANY.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
January 13, 1868........	1900..................	210	$210,000 00	501 to 710	Green "B" 6 per cent.	23	10	162	......	......	1	14
February 3, "	"	115	115,000 00	2061 " 2175	" " 6 "	24	2	89	......	......	......	.....
" 14, "	"	25	25,000 00	2176 " 2200	" " 6 "	1	1	23	......	......	......	.....
....	....	350	$350,000 00	....	....	48	13	274	......	......	1	14

LOUISVILLE, CINCINNATI AND CHARLESTON RAILROAD COMPANY.

January 21, 1839	January 21, 1869	32	$32,000 00	355 to 386	White "A" 5 per cent.	....	....	32	......	....	....	....

CAPITOL BONDS.

April 1, 1848	April, 1858	200	$ 50,000 00	1 to 200	White "A" 6 per cent.	......	......	200	....	......	......	.....
March 1, 1849	March, 1859	200	50 000 00	1 " 200	" "B" 6 "	......	......	200	....	......	....:	.....
" 2, 1850	" 1870	75	75,000 00	1 " 75	" "C" 6 "	......	......	6	67	2	......	.....
" 25, 1851	" 1871	75	75,000 00	1 " 75	" "D" 6 "	......	......	43	32	......	......	.....
" 22, 1852	" 1872	150	150,000 00	1 " 150	" "E" 6 "	......	......	6	144	......	......	.....
August 27, 1852	" "	50	50,000 00	151 " 200	" " 6 "	......	......	34	15	1	......	.....
March 9, 1853	" "	50	50,000 00	201 " 250	" " 6 "	......	......	16	33	1	......	.....
February 28, 1854	" 1874	191	191,000 00	1 " 191	" "F" 6 "	......	......	90	65	36	......	.....
December, 1856	July, 1886	50	50,000 00	192 " 241	" 6 "	......	......	49	....	1	......	.....
March, 1857	" "	20	20,000 00	242 " 261	" 6 "	15	......	4	....	......	1	.....
September 11, 1857	" "	10	10,000 00	262 " 271	" 6 "	1	......	9	....	......	......	.....
December, "	" "	20	20,000 00	272 " 291	" 6 "	10	1	8	....	......	1	.....
" 7, "	" "	50	50,000 00	292 " 341	" 6 "	43	......	7	....	......	......	.....
September 17, 1860	January, 1890	25	25,000 00	1 " 25	" 6 "	25	......	......	....	......	......	.....
Total	....	1166	$866,000 00	....	....	94	......	672	356	41	2	.....

AGRICULTURAL BUREAU BONDS.

July 19, 1856	1892	30	$30,000 00	442 to 4471	White "B" 6 per cent.	12	1	11	6	....	....	....

HERMITAGE BONDS.

March 29, 1856	1892	48	$48,000 00	3538 to 3585	White "B" 6 per cent.	34	9	4	....	....	....	1

FUNDING BONDS—ACTS OF 1866.

....	January, 1892	4941	$4,941,000 00	1 to 4941	White "D" 6 per cent.	2137	663	2032	28	....	40	37

FUNDING BONDS—ACTS OF 1868.

....	1900	2200	$2,200,000 00	1 to 2200	Green "C" 6 per cent.	554	102	1529	....	....	13	2

NEW SERIES FUNDING BONDS—ACTS OF 1873.

....	1914	6641	$6,641,000 00	1 to 6641	Green "F" 6 per cent.	....	....	1774	....	....	4867	....

STATEMENT OF BONDS.—*Continued.*

RENEWAL BONDS.

DATE OF ISSUANCE.	DATE OF MATURITY.	No. of Bonds.	Amount of Bonds.	How Numbered.	Description.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal Under Act of Dec. 1866, and Act of March, 1873.	Still out to be Renewed.	Still out to be Registered.	E. T. U.
....	1892	5	$ 5,000 00	5456 to 5460	Green 6 per cent.	1	1	3	....	......	......	.....
....	"	8	8,000 00	5586 " 5593	" 6 "	2	2	4	....	......	......	.....
....	"	33	33,000 00	6001 " 6032	" 6 "	1	1	31	....	......	......	.....
....	"	9	9,000 00	6601 " 6609	" 6 "	2	4	3	....	......	......	.....
....	"	1	1,000 00	6710 "	" 6 "	......	......	1	....	......	......	.....
....	"	6	6,000 00	6736 " 6741	" 6 "	......	1	5	....	......	......	.....
....	"	2	2,000 00	7017 " 7018	" 6 "	2	......	......	....	......	......	.....
....	"	9	9,000 00	7542 " 7550	" 6 "	2	1	6	....	......	......	.....
....	"	7	7,000 00	8034 " 8040	" 6 "	2	......	5	....	......	......	.....
....	"	41	41,000 00	8161 " 8201	" 6 "	6	2	28	....	......	2	3
....	"	67	67,000 00	8294 " 8360	" 6 "	32	1	34	....	......	......	.....
....	1900	17	17,000 00	8496 " 8512	" 6 "	4	1	12	....	......	.....	.....
....	"	4	4,000 00	8547 " 8550	" 6 "	1	......	3	....	......	......	.....
....	"	13	13,000 00	8551 " 8563	" 6 "	......	......	13	....	......	......	.....
....	"	20	20,000 00	8631 " 8650	" 6 "	5	......	15	....	......	......	.....
....	"	3	3,000 00	8771 " 8773	" 6 "	2	......	......	....	......	1	.....
....	"	32	32,000 00	9009 " 9040	" 6 "	12	......	20	....	......	......	.....
....	"	17	17,000 00	9198 " 9214	" 6 "	5	1	11	....	......	......	.....
....	"	110	110,000 00	9235 " 9344	" 6 "	34	3	72	....	......	......	1
....	"	3	3,000 00	9678 " 9680	" 6 "	1	......	2	....	......	......	.....
....	"	231	231,000 00	4898 " 5128	" "B" 6 "	......	......	281	....	......	......	.....
....	"	59	59,000 00	5145 " 5203	" " 6 "	9	22	28	....	......	......	.....
Total........	....	697	$697,000 00	....	....	123	40	527	....	......	3	4

SUMMARY STATEMENT,

Showing number and amount of bonds issued to the several railroads of the State, how many have been registered and remain outstanding, how many cancelled, how many renewed, etc.

No of Bonds.	Amount of Bonds.	NAME OF RAILROAD.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal.	Still out to be Renewed.	Still out to be Registered.	No. now in hands of E. T. U.
596	$ 596,000 00	Central Southern Railroad	357	59	172	1	....	5	2
1373	1,373,000 00	Cin. Cumberland Gap & Charleston R. R.	320	80	915	1	....	30	27
1614	1,614,000 00	East Tennessee and Georgia Railroad	1053	135	355	22	....	35	14
2202	2,202,000 00	East Tennessee and Virginia Railroad	1200	184	749	32	....	18	19
400	400,000 00	East Tenn. and West N. Carolina Railroad.	33	8	354	....	....	1	4
1180	1,180,000 00	Edgefield and Kentucky Railroad	639	114	404	3	....	6	14
200	200,000 00	Evansville, Hen. and Nashville Railroad	22	7	171	....	....	....	....
449	449,000 00	Hiwassee Railroad	59	16	153	136	83	2	....
2350	2,350,000 00	Knoxville and Kentucky Railroad	501	136	1645	3	....	13	52
710	710,000 00	Knoxville and Charleston Railroad	136	59	496	....	....	6	13
200	217,250 00	Lagrange and Memphis Railroad	......	....	132	38	30	....	....
32	32,000 00	Louisville, Cin. and Charleston Railroad	......	....	32	....	....	....	....
455	455,000 00	Louisville and Nashville Railroad	292	46	100	1	....	6	10
772	772,000 00	McMinnville and Manchester Railroad	347	38	367	7	....	9	4
1700	1,700,000 00	Memphis and Charleston Railroad	805	105	739	15	....	25	11
1582	1,582,000 00	Memphis, Clarksville & Louisville Railroad.	772	147	613	4	....	19	27
1999	1,999,000 00	Memphis and Ohio Railroad	1149	130	667	3	....	27	23
100	100,000 00	Mineral Home Railroad	......	....	100	....	....	....	....
1124	1,124,000 00	Mississippi Central Railroad	471	64	564	8	....	9	8
398	398,000 00	Mississippi and Tennessee Railroad	100	20	273	....	....	2	3
1296	1,296,000 00	Mobile and Ohio Railroad	934	102	219	13	....	19	9
395	395,000 00	Nashville and Chattanooga Railroad	111	36	237	2	....	3	6
350	350,000 00	Nashville and Decatur Railroad	48	13	274	....	....	1	14
3222	3,222,000 00	Nashville and Northwestern Railroad	1355	226	1570	4	....	30	37
385	385,000 00	Rogersville and Jefferson Railroad	159	22	191	....	....	3	10
503	503,000 00	Southern Railroad	62	17	410	....	....	2	12
1173	1,173,000 00	Tennessee and Alabama Railroad	457	111	557	26	....	11	11
1185	1,185,000 00	Tennessee and Pacific Railroad	68	31	1084	....	....	2	....
1289	1,289,000 00	Winchester and Alabama Railroad	443	74	736	....	....	14	22
29234	$29,251,250 00	....	11882	1973	14292	319	113	299	352

~~2556~~
2554

SUMMARY STATEMENT,

Showing number and amount of bonds issued to the several Turnpikes of the State, how many have been registered and remain outstanding, how many cancelled, how many renewed, etc.

No of Bonds.	Amount of Bonds.	Name of Turnpikes.	Registered and not Cancelled.	Registered and Cancelled.	Cancelled before Registration.	Cancelled by Renewal.	Still out to be Renewed.	Still out to be Registered.	No. now in hands of E. T. U.
67	$ 66,666 66	Nashville, Mur. and Shelbyville T. P. Co.	......	....	67	....	....	....	....
132	132,500 00	Gallatin “	......	....	86	34	12	....	....
7	7,000 00	Chambers and Purdy “	......	....	2	5	....	....	....
75	75,900 00	Franklin and Columbia “	1	....	32	35	7	....	....
150	150,000 00	Columbia Central “	......	....	82	54	14	....	....
30	30,000 00	Nashville and Charlotte “	......	....	16	12	2	....	....
16	16,000 00	Fayetteville and Shelbyville “	......	....	16	....	....	....	....
44	44,000 00	Pelham and Jasper “	......	....	17	21	6	....	....
127	127,600 00	Columbia, Pulaski and Elkton “	4	....	40	64	19	....	....
37	37,500 00	Clarksville and Russellville “	......	....	14	19	4	....	....
7	7,000 00	Forked Deer “	......	....	7	....	....	....	....
14	14,000 00	Big Hatchie “	......	....	9	4	1	....	....
6	6,000 00	Gallatin and Cumberland “	......	....	4	2	....	....	....
49	49,000 00	Nolensville “	......	....	16	27	6	....	....
35	35,000 00	Ashport “	......	....	20	13	2	....	....
6	6,000 00	Fulton “	......	....	......	6	....	....	....
85	85,000 00	Lebanon and Sparta “	5	1	23	47	6	3	....
50	50,000 00	Nashville and Kentucky “	2	....	17	27	3	1	....
49	49,900 00	Murfreesboro and Manchester “	48	....	.....	....	....	1	....
39	39,000 00	Harpeth “	6	....	15	9	7	2	....
107	107,000 00	Cumberland and Stones' River “	......	....	27	70	10	....	....
81	81,000 00	Lebanon and Nashville “	6	....	50	17	8	....	....
45	45,000 00	Jefferson “	7	1	8	27	2	....	....
6	6,000 00	Carthage and Hartsville “	.....	....	5	....	1	....	....
8	8,000 00	Carthage and Rome “	2	....	6	....	....	....	....
16	16,000 00	Car , Alexander and Red Sul. “	......	....	4	12	....	....	....
25	25,000 00	Dyersburg and Mississippi “	25	....	......	....	....	....	....
20	20,000 00	Bristol and Hendricks Creek “	4	....	15	....	....	....	1
20	20,000 00	Rog. and Little War Gap “	2	....	18	....	....	....	....
15	15,000 00	New Market “	2	....	13	....	....	....	....
8	8,000 00	Jacksboro and Powell's Valley “	1	....	7	....	....	....	....
50	50,000 00	Mulberry and Rogersville “	3	....	47	....	....	....	....
10	10,000 00	Manskers Creek and Spring “	......	....	10	....	....	....	....
1436	$499,066 66	....	118	2	693	505	110	7	1

SUMMARY STATEMENT

Showing number of bonds issued, how many have been registered, how many cancelled, renewed, etc.; arranged according to purpose of issuance.

No. of Bonds.	To Whom Issued.	Registered and not Cancelled.	Registersd and Cancelled.	Cancelled before Registration.	Cancelled by Renewal.	Still out to be Renewed.	Still out to be Registered.	Now in hands of E. T. U.
500	Union Bank			375		125		
2500	Bank of Tennessee			2286	191	23		
29234	Railroads	11882	1973	14292	319	117	299	352
1436	Turnpikes	118	2	693	505	110	7	1
1166	Capitol	94	1	672	356	41	2	
30	Agricultural Bureau	12	1	11	6			
48	Hermitage	34	9	4				1
4941	Funding Bonds—Act of 1866	2137	663	2032	23		49	37
2200	" " " 1868	554	102	1529			13	2
697	Renewals	124	39	527			3	4
42752		14955	2790	22421	1400	416	373	379

6,641 New Series Funding Bonds 1873.
Outstanding, 4867.
Cancelled, 1774.

AMOUNTS ISSUED, GROUPED ACCORDING TO PURPOSE OF ISSUANCE.

	Amount.	Total.
Banks	$ 3,000,000 00	
Railroads	29,251,250 00	
Turnpikes	1,499,066 66	
Capitol	866,000 00	
Agricultural Bureau	30,000 00	
Hermitage	48,000 00	
Renewals	697,000 00	
Funding Bonds 1866	4,941,000 00	
" " 1868	2,200,000 00	
New Series 1873	6,641,000 00	
Total Amount of Bonds Issued		$49,173,316 66

List of Securities, (*Bonds and Coupons*) *received by the Comptroller since Dec.* 19, 1876, *up to and including Dec.* 19, 1878.

PAID BY RAILROADS.

1199	Bonds received in settlement of the indebtedness of the Mississippi Central and Mississippi Central & Tennessee Railroad.	
	Coupons received from same Company amounting to............	$ 94,230 00
1768	Bonds received in settlement of the indebtedness of the Memphis & Charleston Railroad.	
	Coupons received from the same Company amounting to.........	124,260 00
16	Bonds received from Mississippi & Tennessee Railroad on account of Sinking Fund.	
299	Bonds received from the same Company in settlement of indebtedness to the State.	
	Coupons received from the same Company amounting to........	26,316 00
45	Bonds received from the purchasers of the Knoxville & Charleston Railroad.	
	Coupons received from same purchasers amounting to..........	4,408 00

PAID IN BY THE SURETIES OF DEFAULTING REVENUE COLLECTORS UNDER THE PROVISIONS OF H. J. R. NO. 73, MARCH 23, 1875.

3 Bonds paid in by the sureties of W. B. Smith, Revenue Collector of Meigs County, for the year 1869.

3 Bonds paid in by the sureties of John Wortham, Revenue Collector of Bedford County, for the year 1867.

15 Bonds paid in by the sureties of Wm. McLean, Revenue Collector of Shelby County, for the years 1868 to 1871.

6 Bonds paid in by the sureties of Thos. J. Littleton, Revenue Collector of Roane County, for the year 1867.

3 Bonds paid in by Hugh McGavock in the case of The State vs. M. Welch.

3 Bonds received from Wm. Morrow, Insurance Commissioner.

6 Bonds received under Act of 1877, ch. 95, and S. J. R. No. 9, Acts 1877, from the sureties of T. J. Littleton, Revenue Collector of Roane County, for the year 1867.

COUPONS PAID UNDER H. J. R. NO. 67, MARCH 19, 1875, AND UNDER THE APPROPRIATION ACT OF 1877, SECTIONS 27 AND 42.

Paid to	Montgomery County, January, 1877..........................	$ 4,020 00
"	Knox " " "	420 00
"	East Tennessee University, Jan. and July, 1877 and 1878.......	47,820 00
"	Leathe Orphan Asylum " " " "	2,400 00
"	South Western Presbyterian University, Jan. and July, 1877-78..	8,280 00
"	West Tennessee College, Jan. and July, 1877 and 1878.........	4,160 00
"	University of Nashville, " " " "	11,160 00
"	Martin Female College, " " " "	3,600 00

COUPONS FUNDED INTO NEW SERIES FUNDING BONDS.

$30	Coupons amounting to..................................	$ 8,190 00
25	" " "	200 00

BONDHOLDERS
vs.
RAILROADS.

EXHIBIT X.

Exhibit X.

THE BILL OF THE STATE OF TENNESSEE.

vs.

DELINQUENT RAILROADS.

To the Hon. E. H. East, Chancellor, etc., holding the Chancery Court at Nashville:

The Bill of the State of Tennessee.

vs.

The Edgefield and Kentucky Railroad Company,
Nashville and Northwestern Railroad Company,
Memphis, Clarksville and Louisville Railroad Company,
McMinnville and Manchester Railroad Company,
Winchester and Alabama Railroad Company,
Southwestern or Southern Railroad Company,
Knoxville and Kentucky Railroad Company.
Cincinnati, Cumberland Gap and Charleston Railroad Company,
Knoxville and Charleston Railroad Company,
Rogersville and Jefferson Railroad Company,
East Tennessee and Western North Carolina Railroad Company.

All of which companies are chartered by the Legislature of Tennessee and have their principal places of business in this State, and, as near as can be ascertained, in the following places: The first two at Nashville, the third at Clarksville, the fourth at McMinnville, the fifth at Winchester, the sixth at McMinnville or Sparta, the seventh, eighth and ninth at Knoxville, the tenth at Rogersville, Hawkins county, and the eleventh at Johnson's Depot, Washington county.

And against the respective Stockholders of these Companies,

The Holders of the Bonds issued by the State to these Companies,

And the Holders of Bonds issued by any of these Companies,

And the Creditors of said Companies,

And all other persons interested in said several Roads or Companies.

All of whose names and residences are unknown, except as follows:

The County of Davidson, a stockholder in both the Edgefield and Kentucky and the Nashville and Northwestern Railroad Companies: Wm. Connell, Enoch Cunningham, citizens of Davidson county, and E. A. Fort and Isaac Turner, citizens of Robertson county, and stockholders in the Edgefield and Kentucky Railroad Company; R. C. McNairy, M. Burns, E. H. Hicks, citizens of Davidson county, Tennessee, and stockholders of, and, perhaps, creditors and holders of bonds issued by the Nashville and Northwestern Railroad Company; Gustavus A. Henry and Montgomery county stockholders, and, perhaps, creditors and holders of bonds of the Memphis, Clarksville and Louisville Railroad Company; P. H. Marbury, W. P. Hickman, James P. Thompson, L. D. Hickerson, William Moore and Matt. Smartt, citizens of Warren or Coffee counties, and stockholders of the McMinnville and Manchester Railroad Company; the Mayor and City Council of Nashville, and John Frizzell, of Davidson county, stockholders in the Winchester and Alabama Railroad Company; J. H. Hughes and J. B. Armstrong, of Warren county, G. G. Dibrell, of White county, stockholders of the Southwestern Railroad Company; G. W. Ross, C. M. McGhee, P. Dickenson, H. S. Chamberlin, E. T. Sanford, citizens of Knox county, the counties of Knox, Campbell and Anderson, and the city of Knoxville, stockholders of the Knoxville and Kentucky Railroad Company; C. E. Carreger and D. Morris, of Hamblen county, W. A. Moore, of Jefferson county, and Alex E. Smith, of Cocke county, stockholders of the Cincinnati, Cumberland Gap and Charleston Railroad Company; the city of Knoxville, Knox county, Blount county, and Thomas O'Connor, of Knox county, stockholders of the Knoxville and Charleston Railroad Company; Hawkins county, C. J. McKinney, stockholders of the Rogersville and Jefferson Railroad Company; Carter county, and E. Simmerly, of Carter county, stockholders of the East Tennessee and Western North Carolina Railroad Company.

And, thereupon, your orator complains and says, that by an act of the General Assembly of the 11th of February, 1852, ch. 151, and subsequent acts amendatory thereof, a system of internal improvements, by means of railroads, was inaugurated and developed by the aid of your orator, through the loan of its credit, in the form of coupon bonds issued to the several railroad companies to whom State aid was granted, having not less than thirty years to run, made payable at such places in the United States as the president of the company might designate, and bearing six per cent. per annum interest, payable semi-annually. Said acts provide for the issuance of said bonds from time to time as the work progresses on the said roads, and that the bonds, when issued, shall constitute a lien upon so much of the road as may then be prepared, including the road-bed, right of way, grading, bridges and masonry, upon all the stock subscribed for in said company, and upon the iron rails, chairs, spikes and equipments, when purchased and delivered, and that your orator, upon the issuance of said bonds, and by virtue of the same, shall be invested with said lien or mortgage, without a deed from the company‘ for the payment by said company of said bonds, with interest thereon, as the same becomes due. Said act further provides, that when the whole of said roads shall be completed, your orator shall be invested with a lien, without a deed from the company, upon the entire road, including the stock, right of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and epuipments, and all the property owned by the company as incident to, or necessary for its business, and all depots, depot stations, for the payment of all said bonds issued to the company, and for the interest accruing on said bonds. It is further provided by sec. 4 of the original act of 1852, that after the Governor shall have issued bonds for the first section of the road, it shall not be lawful for said company to give, create or convey to any person or persons, or body corporate whatever, any lien, incumbrance, or mortgage of any kind, which shall have priority over, or come in conflict with the lien of the State herein secured; and any such lien, incumbrance or mortgage shall be null and void as against said lien or mortgage of the State, and the said lien or mortgage of the State shall have priority over all other claims existing or to exist against said company. By the fifth section of the original act, as amended by act of 26th January, 1869, ch. 19, it is provided that the company to which bonds are issued shall pay to the Comptroller of the State, at least fifteen days before the interest becomes due, from time to time, upon said bonds issued as aforesaid, an amount sufficient to pay such interest, including exchange and necessary commissions, or satisfactory evidence that said interest has been paid or provided for, and, on failure, it is made the duty of the Comptroller to report to the Governor, who shall immediately appoint some suitable person at the expense of the company, to take possession and control of said road, and all the assets thereof, and manage the same, and receive the rents, issues, profits and dividends thereof, and pay over the same, under the direction of the Governor, towards the liquidation of such unpaid interest; and said receiver shall continue in possession, and run and manage the entire road, until a sufficient sum shall be realized, exclusive of the costs and expenses incident to said proceedings, to pay off and discharge the interest as aforesaid. By the 6th section provision is made for the case where the railroad company fails to pay the bonds at maturity. By sec. 7 provision is made for the payment of a sinking fund for the payment of the bonds so issued, and, in case of failure to comply with its provisions, it is provided that the company so failing shall be proceeded against as provided in the fifth section of the act. The 12th section of said act is in these words:

> "Sec. 12. *Be it enacted*, That the State of Tennessee expressly reserves the right to enact, by the Legislature thereof, hereafter, all such laws as may be deemed necessary to protect the interest of the State, and to secure the State against any loss in consequence of the issuance of bonds under the provisions of this act, but in such manner as not to impair the vested rights of the stockholders of the companies."

By the 10th section of this original act, the benefit of its provisions was extended to five of the railroad companies mentioned in the caption of this bill, viz: the Nashville and Northwestern Railroad Company, the Southwestern Railroad Company, the McMinnville & Manchester Railroad Company the Memphis, Clarksville and Louisville Railroad Company, and the Winchester and Alabama Railroad Company; and by subsequent acts the benefits of its provisions, and of the acts amendatory thereof, was extended to each of the other roads mentioned in said caption. By subsequent acts, amendatory of the act of 1852, the extent of State aid was largely increased by authorizing the issuance of State bonds to a much larger amount for each mile of road than the original eight thousand dollars per mile mentioned in said act, and for the purpose of building bridges, trestles, roadway, embankments, etc., etc. By subsequent legislation, also, the time of paying in the sinking fund, and the per cent. of such fund, were changed for the accommodation of said roads, and every indulgence extended to them by the Legislature to aid them in their completion and equipment, and to secure to the people the benefits of a liberal system of internal improvements, and to the stockholders and other persons interested in the roads themselves, directly the fruits of their investments. In all cases in which State aid was extended or increased to any of said companies, beyond the provisions of the act of 1852, it was expressly provided that your orator should have, for its security, the same lien given by the act of 1852, and in substance, to use the language of the 10th section of that act, that "said companies shall have all the powers and privileges, and be subject to all the restrictions and liabilities contained in this (that) act."

Your orator would further show, that large arrears of unpaid interest having accrued during the pendency of the late civil war, the Legislature, by the act of the 23d of November, 1865, ch. 9, provided for the funding of such interest by issuing coupon State bonds similar to those issued under the act of 1852, and its amendments, and maturing at the same time, for all the interest which had accrued, or might, up to the 1st of January, 1868, accrue upon any of the bonds issued under these acts previous to the 6th of May, 1861. And by the 4th section of the said of 1865, the Legislature directed that such funded interest should be charged up to said companies on the same terms and conditions of the original loan, and that the State shall have the liens upon each of the said roads, their franchises and property, for the prompt and faithful payment of the principal and interest of the bonds thus authorized to be issued, as it has under the act of 1852, and its amendments, for bonds issued under them. And by the 5th section it is provided, that the several railroad companies receiving aid under the act of 1865, by the funding of the interest, should pay the interest on the bonds thus issued as it matures, commencing on the 15th day of June, 1866, in the same manner and under the same rules, regulations and restrictions as they are now required to pay under the act of 1852 and its amendments. By the 6th section of said act, the law requiring the railroad companies who had received State aid to pay into the treasury of the State a sinking fund, was suspended until January 1st, 1867 (afterwards extended by 1867, 22 to 1st January, 1870), and the companies were relieved from the payment of the sinking fund then past due under said laws. Your orator states that all of the railroad companies made defendants to this bill, as well as the other companies who had received State aid under the act of 1852, and its amendments, acquiesced in the provisions of the said act of 1865, and received and accepted its benefits.

Your orator would further show, that by act of the 18th of January, 1866, ch. 14, entitled "An act to amend an act to establish a system of internal improvements, passed the 11th of February, 1852," the Legislature, reciting the fact that the railroads therein named were out of repair, and the companies unable to put them in running order, provided for the extension of additional State aid to said roads by the issuance of coupon State bonds, similar in character, in every respect, to the bonds issued under the act of 1852, said bonds to bear date January 1st, 1866, and be payable the 1st January, 1892. The roads thus provided for include the companies made defendants to this bill as follows:

Edgefield and Kentucky	$115,000
Nashville and Northwestern	300,000
Memphis, Clarksville and Louisville	400,000
McMinnville and Manchester	346,000
Winchester and Alabama	372,000
Knoxville and Kentucky	250,000
Rogersville and Jefferson	100,000

By act of May 22, 1866, same session, the Legislature amended the foregoing act of the 18th January, 1866, by extending additional aid to

Cincinnati, Cumberland Gap and Charleston.	$100,000
Nashville and North-western.	200,000

By the act of May 24, 1866, ch. 88, secs. 58 and 59, of same session, additional aid was extended to the following companies:

Edgefield and Kentucky.	$110,000
Memphis, Clarksville and Louisville.	100,000
Knoxville and Kentucky.	250,000

"Said bonds to be issued with all the restrictions, liens and provisions of the act passed January 18, 1866." And by act of 20th May, 1866, ch. 49, of same session, further additional aid to the amount of $54,000 was granted to the McMinnville and Manchester Railroad Company, on the same terms as provided by the act of the 18th of January, 1866. By the terms of this latter act, sec. 4, each of the companies to whom relief was granted was required to pay the interest on the bonds thus issued, and a sinking fund of four per cent. on the amount of indebtedness created under the act, to be enforced as provided under the internal improvement law. Sec. 8 is as follows:

> "That the lien retained or declared in the fourth section of this act is hereby declared cumulative of, and in addition to the lien declared in the act of 1852, which this is intended to amend, *which lien is hereby declared to extend to and cover the money or bonds to be advanced to said roads under this act.*"

Your orator believes, and so charges, that the Legislature has, in every instance in which State aid has been extended to railroad companies, including the defendants to this bill, been careful to provide that the paramount statutory lien reserved by the act of 1852 should inure to your orator's benefit for the new or additional aid; that the additional aid was received by the companies upon these terms and conditions, with the full knowledge and assent of the stockholders of said several companies, and of the holders of the bonds previously issued by the State to these companies, and of the holders of the bonds of those companies, if any such bonds were issued by them, and of the creditors of said companies, and all other persons interested in said several roads and companies, and who are made defendants to this bill. And if there were not actual knowledge and positive assent, there was such constructive knowledge and tacit assent as will, in law, amount to the same thing. Your orator claims to have acquired, by virtue of the said several acts of the Legislature amendatory of the act of 1852, and granting additional aid to the several railroad companies, a statutory lien or mortgage upon the entire road of said several companies, including the stock, right of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments, and all the property owned by the company, and necessary for its business, and all depots and depot stations, its "franchises and property," (1865, 9, 4,) prior and superior to all other liens whatsoever and whensoever created, all other liens, incumbrances and mortgages being null and void (1852, 151, 4,) as against said lien and mortgage of your orator.

Your orator would now show your honor that the 34th section of the charter of the Nashville and Chattanooga Railroad Company (passed on the 11th of December, 1845, chapter 1,) is in these words:

"This charter shall be amendable from time to time by the Legislature whenever the president and directors shall unanimously petition for amendments, specifying in the petition the nature of such amendments; and when such amendments shall be adopted by the Legislature, and submitted to the directors, and be accepted and adopted unanimously by the president and directors, they shall be obligatory on the stockholders, and not otherwise."

The 50th section of the charter of the Louisville and Nashville Railroad Company, passed 9th February, 1850, chapter 76, is the same in substance, and nearly identical in language. The same provision is contained in the 28th section of the charter of the East Tennessee and Virginia Railroad Company, passed 27th February, 1848, ch. 120. The charters of all the companies made defendants to this bill contain the same provisions, except that of the Nashville and Northwestern Railroad company, by being chartered with the privileges and under the acts of incorporation of one of the companies above named. Thus the East Tennessee and Western North Carolina is chartered under the incorporation of the East Tennessee and Virginia, the Knoxville and Kentucky and Cincinnati, Cumberland Gap and Charleston, under the charter of the Louisville and Nashville, and all the others under the charter of the Nashville and Chattanooga Company.

Your orator would further show, that on the 7th of December, 1867, the Legislature passed an act (ch. 17 of the principal acts of that session), entitled "An act to amend the Internal Improvement Laws of the State, passed February 11th, 1852," whereby it is provided that additional State aid shall issue to the railroads therein named, and, among others, to the companies made defendants to this bill, as follows:

Edgefield and Kentucky . . .	$300,000
Nashville and Northwestern . .	350,000
Nashville and Northwestern extension to Huntingdon	200,000
Winchester and Alabama . . .	300,000
Southwestern	300,000
Knoxville and Kentucky . .	800,000
Cincinnati, Cumberland Gap and Charleston	200,000
Knoxville and Charleston . . .	150,000
East Tennessee and Western North Carolina	200,000

The act provides (sec. 16), that these loans shall be made in like manner, and under the same conditions imposed by the internal improvement laws of the State. It further provides, sec. 15, "That if the several railroad companies, or either of them, to whom the bonds of the State have been loaned by *this act or former acts*, shall fail for two consecutive years to pay the interest that may accrue upon the bonds loaned to them severally, then, and in that case, the Governor, Secretary of State, and Comptroller may, at their discretion, sell said railroad track, railing, rolling stock, etc., upon such terms and conditions as they may deem best to secure the interest of the State ; and shall retain of the proceeds of said sale the amounts loaned to said companies, and the interest due on the same, with expenses of said sale."

The act further provides, sec. 14, that when any railroad company shall accept the benefits of this loan, they shall accept the State directors also, who shall be entitled to all the rights and privileges of other directors in said roads.

Your orator avers that each of the said railroad companies to whom State aid was extended by this act, accepted the aid and the terms and provisions thereof ; that the act itself was procured to be passed by the said companies, and was ratified by the board of directors of said several companies, and by the stockholders, at meetings called for that purpose, or by both. Your orator charges, also, that the additional aid or loan given to said several roads by the said act was received by them, severally, under the provisions of the act, and the terms and conditions of the loan assented to and acquiesced in. Your orator further shows, that the Edgefield and Kentucky Railroad Company, to whom the loan was, by the express terms of the act, made, among other purposes, "for the construction of the extension of said road to the coal mines, under the charter of the Evansville, Henderson and Nashville Railroad," through its officers, called a meeting of its board of directors for the purpose of acting upon this matter, which meeting was held at Nashville on the 27th December, 1867, when and where the following proceedings were had :

(Copy.)

Nashville, Tenn., Dec. 27, 1867.

Board met—Present, E. S. Cheatham, President; Hobson, Fort, Stark and Connell, Directors.

On motion of Mr. Fort, the following preamble and resolutions were adopted:

Whereas, The act of the Legislature of the State of Tennessee, passed December 7th, 1867, entitled "An act to amend the Internal Improvement Laws of the State, passed February 11th, 1852," was submitted for consideration and action of this board, as provided in said act. Be it

Resolved, That the Edgefield and Kentucky Railroad Company consents to and agrees to receive the aid of the State as provided in said act, and consents to the bonds being issued to the Receiver and to J. T. Boyle, President of the Evansville, Henderson and Nashville Railroad Company, to be used in building depots, purchasing machinery, rolling stock and repairs for the Edgefield and Kentucky Railroad.

Resolved, That one hundred thousand dollars of the bonds should be appropriated to the Edgefield and Kentucky Railroad, and two hundred thousand to the Evansville, Henderson and Nashville Railroad.

Resolved, That a certified copy of these resolutions be furnished by the Secretary of the company to R. B. Cheatham, Receiver, to be filed with the Secretary of the State of Tennessee.

The meeting adjourned to January 10, 1868, at 10 A. M.

(Signed) Edward S. Cheatham,
President Edgefield and Kentucky Railroad Co.

Your orator further shows that the Nashville and Northwestern Railroad Company, through its President and Directors, called a meeting of its stockholders for the purposs of taking into consideration the acceptance or rejection of the provisions of this act, which was held and the aid granted accepted, as well the aid given to the extension to Huntington as the aid given to the main trunk.

Your orator is not able to specify the facts with the same particularity with regard to the other roads made defendants to this bill, but charges that the aid was accepted and used and the terms of the act agreed to, and that the State Directors were also accepted.

Your orator would further show in this connection, that although the Rogersville and Jefferson Railroad Company is not included in the act of December 7, 1867, yet, at the same session of the Legislature, on the 7th of March, 1868, a special act was passed for the benefit of this company authorizing the Governor to issue to it, or the Receiver then in control of it, thirty thousand dollars in State bonds: provided, the said "railroad company, by its President and Directors, shall accept the provisions of this act;" and provided, also, they shall accept the conditions and provisions of Sec. 15, of an act passed December 7, 1867, entitled "An act to amend the Internal Improvement Laws of the State, passed February 11, 1852." And your orator charges that the said President and Directors did accept the provisions of said acts, and the bonds were issued and received accordingly.

Your orator would further show that only two of the railroad companies made defendants to this bill, so far as your orator is at present advised, have issued their own bonds and secured the same by a mortgage, pledge, or lien on their roads or incomes, namely, the Nashville and Northwestern Railroad

Company, and the Memphis, Clarksville and Louisville Railroad Company. The first of these companies was authorized by its charter, act of 22d of January, 1852, Ch. 74, Sec. 16, to borrow money on the mortgage of its charter and works, and did, on the — day of ——, in the exercise of their powers, authorize the issue of bonds to the amount of one million dollars, secured by mortgage, of which about seven hundred and fifty or eight hundred thousand dollars, in nominal amount, were issued. But the mortgage deed itself contains the following clause in reference to the lien of the State bonds: "But this grant, conveyance and mortgage is made subject expressly to the statutory lien of the State of Tennessee for the State aid which has heretofore, or may hereafter, be granted to this company, under the Internal Improvement Laws of this State, or under any legislation made for the benefit of this company to carry out the purpose of its incorporation."

By act of February 1, 1860, Ch. 45, the Memphis, Clarksville and Louisville Railroad Company is authorized to issue, from time to time, income bonds in amount not to exceed $350,000 in the aggregate, pledging the receipts of said railroad, and to secure the payment of the principal and interest of these bonds, the company may mortgage to trustees and pass the property recited therein, and privileges and franchises, whatever these words (and they are the words of the act) may mean, "provided, however, that said bonds or any mortgage made to secure them shall in nowise affect the lien of the State of Tennessee, created by the General Internal Improvement Laws of February 11, 1852, and the laws amendatory thereof, either upon (the) part of said road on which State aid has been drawn or upon any part of the same on which it may be subsequently drawn, but shall in all cases be and regarded as secondary in right to the same, the State of Tennessee hereby expressly reserving priority of lien as is provided by (the) General Internal Improvement Act." By sec. 2, it is provided "That the said bonds are hereby authorized to contain on their face a pledge of the income of said company from their road after paying liabilities due the State of Tennessee, charges for running and the necessary repairs of said road." And by sec. 3, to make assurance doubly sure, it is further provided: "This act shall not be so construed to effect, nor shall any mortgage executed by its provisions impair or in any way effect, change or weaken the lien of the State of Tennessee, created by the State of Tennessee *in conferring or accepting State aid* by said company.

Your orator does not know what amount of bonds were issued and used under this act, but insists that such bonds, and any mortgage or pledge made to secure them can, in no wise, affect the lien and rights of the State for any aid conferred or accepted under the Internal Improvement law of 1852, or any subsequent act amendatory, or in extension thereof, or in furtherance of their objects.

Your orator would further show that by the act of the 24th of May, 1866, ch. 88, sec. 57, which was procured by and passed at the instance of the companies named therein, the Governor was authorized to execute a bond for the "purchase of railroad machinery, cars, and all other material purchased for the use and benefit of the Memphis, Clarksville and Louisville Railroad, and the Edgefield and Kentucky railroad from the United States military railroad department at Nashville, from the United States." That the object of this provision was to procure from the United States rolling stock and machinery for the running of these roads, the companies being themselves unable to make these purchases. Accordingly, his Excellency Wm. G. Brownlow, the then Governor of the State, did on the ——— day of ————————, 186–, assume the payment to the United States of $130,804.58 for the benefit of the Edgefield and Kentucky Railroad Company, and on the ——— day of ————————, 186–, the payment, in like manner, of $380,756.24 for the benefit of the Memphis, Clarksville and Louisville Railroad Company. The stock and material thus obtained have been in the possession and use of, and for the benefit of said roads respectively ever since, and are now used upon these roads.

Your orator would further show that not one of the railroad companies, made defendants to this bill, has complied with the provisions of the internal improvement laws by promptly paying the interest upon the bonds issued to it as the same fell due from time to time, or the sinking fund to meet the principal of the bonds at maturity; but they are all in default in these respects, and have been for many years, and the arrears are accumulating to such an extent as to exhaust the State treasury and render it absolutely necessary to resort to some plan for relief. Your orator resorted, in each instance, to the mode provided by the act of 1852, and appointed receivers of said roads to run the same as therein contemplated, but in nearly every case, instead of having a surplus to apply to the reduction of the arrears of interest, after paying the expenses of running the roads, the expenses have exceeded the income, and there has been actual loss. And even where payments have been made they have been so small, in proportion to the increase of the debt in the same time, as to demonstrate the inutility of expecting relief in that mode. Your orator will state presently the items of indebtedness of each of said roads to your orator, but, at present,

22579

the following is a list of the gross indebtedness, including interest, to the 1st of January, 1871:

Edgefield and Kentucky Railroad Co.	$2,081,179 71
Nashville and Northwestern Railroad Co.	4,541,129 41
Memphis, Clarksville and Louisville Railroad Co.	2,953,795 92
McMinnville and Manchester Railroad Co.	1,099,578 00
Winchester and Alabama Railroad Co.	1,790,536 70
Southwestern Railroad Co. . .	503,000 00
Knoxville and Kentucky Railroad Co	2,816,176 00
Cincinnati, Cumberland Gap & Charleston R. R. Co. . . .	1,657,108 52
Knoxville and Charleston Railroad Co.	816,500 00
Rogersville and Jefferson Railroad Co.	513,013 20
East Tenn. and Western North Carolina R. R. Co.	448,000 00

Your orator finds, and so charges, that these sums are so large in every instance, when taken in connection with the length of road, the resources, and probable income for the future, that it is impossible to expect any of these companies to meet its engagements, under the provisions of the internal improvement laws, by the payment of interest and sinking fund as stipulated for. Several of them, such as the Southwestern, Cincinnati, Cumberland Gap and Charleston, Knoxville and Charleston, Rogersville and Jefferson, and East Tennessee and Western North Carolina, are utterly insolvent, without the least prospect of ever paying the accruing interest, or even running expenses. The same is true of the Winchester and Alabama and the McMinnville and Manchester, so far as their ever paying the accruing

2580

interest is concerned. The remaining three roads form connecting links with other lines of railroads, and, if prudently managed by persons having the means to run them, might pay expenses, and, in time, a portion of the accruing interest. But your orator charges that neither one of these, even under the best management, and making all proper allowance for increased business, can ever hope to pay the arrears of interest and sinking fund, or even, perhaps, the whole of the annual accruing interest.

The companies are themselves insolvent, without any rolling stock, except that purchased from the United States Government, and not paid for, and without any resources for the future—two of them, as we have seen, being heavily mortgaged, and are being run by other companies under lease, and the other being so heavily in debt, in proportion to its length and connections, as to render another mortgage out of the question. And even if there were any reasonable prospect to any of these roads in future, neither your orator nor they can afford to wait for the chances.

Under these circumstances the Legislature, by act of July 5th, 1870, ch. 79, appointed the Governor, Secretary of State and Comptroller, and the Hon. F. B. Fogg, A. Wright and R. J. McKinney, commissioners, to sell and transfer the interest of the State in delinquent railroads; and these commissioners, after due notice, undertook, on the 3d of November, 1870, to sell the interest of the State in the several railroad companies made defendants to this bill, but failed to receive a bid for either road. This result, it appears sfrom the report of the commissioners, grew out of the fact that the minimum price which the commissioners were authorized to accept for the interest sold in any road was the amount of the debt due the State, which amount was rendered uncertain, in the case of several of the roads, by circumstances detailed in the report, and was, in the case of other roads, much larger, nominally, than the value of the debts, or even of the roads. Under these circumstances the Legislature, on the 21st December, 1870, passed an act to amend the act of 1870-79, and directed a bill to be filed in the Chancery Court at Nashville, in the name of the State, against the delinquent companies, the respective stockholders, holders of bonds, creditors, and all persons interested in the said several roads, to settle all matters of controversy touching the rights and interests of the State, ascertain such interests, and define the purchaser's rights, and for other purposes, and this bill is filed accordingly.

Your orator would now show your Honor that the State aid has been advanced to the Edgefield and Kentucky Railroad Company as follows:

To E. S. Cheatham, Pres't,	April 4, 1857,	under Dec.	15, 1855	..$20,000
" "	June 24, 1857,	"	"	. 20,000
" "	August 13, 1857,	"	"	.. 20,000
" "	October 17, 1857,	"	"	.. 40,000
" "	March 10, 1858,	"	"	.. 40,000
" "	September 27, 1858	"	"	.. 20,000
" "	December 28, 1858,	"	"	.. 20,000
" "	October 6. 1859,	"	"	.. 20,000
To John L. Helm, Agent,	January 21, 1860,	"	"	.. 11,000
				$211,000

The bonds to this amount seem to have been drawn for the purpose of building the railroad bridge over the Cumberland river at Nashville, which was a joint enterprise of the Edgefield and Kentucky and the Louisville and Nashville Railroad Companies, and it is claimed by the former road that the latter road has paid off to your orator its one-half of the debt thus created, leaving the other half only as a charge on the former road. How this is, your orator does not know, and requires the defendant to show the fact. Admitting the claim for the present, the statement of debt will be:

One-half foregoing advances	$105,500
To E. S. Cheatham, Pres't, under June 11, 1858	300,000
" " under February 12, 1859	26,000
" " under August 30, 1859	10,000
" " under September 30, 1859	17,000
To E.S.Cheatham, Pres't, May 24,1859, under 11th Feb'y, 1852,	$180,000
" " under June 9, 1850	10,000
" " under January 23, 1860	51,000
" " April 16, 1869, under March 22,1860.	45.000
	$750,000

All these bonds were issued previous to the war, and the company failing to meet the interest upon the bonds as they fell due, the Governor, under the provisions of the Act of February 11, 1852, as early as the close of the year 1860, or the beginning of the year 1861, appointed Adna Anderson receiver, and the road has been in the hands of receivers ever since—the receivers since the war being R. B. Cheatham, John B. Brownlow, E. A. Fort, and now Wm. Connell, the president of the company. After the war State aid was again extended to this road under the acts hereinbefore recited, and others, as follows:

Former aid brought forward	$750,000
To R.B.Cheatham, Receiver, April 23, 1866, under Jan. 18, 1866.	115,000
" " June 20, 1866, under May 24, 1866.	110,000
" " Jan. 14, 1868, under Dec. 7, 1867.	25,000
" " Jan, 26, 1868, under Dec. 7, 1867.	75,000
To J. T. Boyle, President, Jan. 8, 1868, under Dec. 7, 1867..	50,000
" " Jan. 17, 1868, under Dec. 7, 1867.	68,000
" " Jan. 18, 1868, under Dec. 7, 1867.	32,000
" " Jan. 24, 1868, under Dec. 7, 1867.	50,000
	$1,275,000

To this add—

Funded interest under November 23, 1865	$231,812 00
Unfunded interest in arrears 1st January, 1871..........	402,492 26
Debt to United States and interest to 1st January, 1871...	171,375 45
	$2,081,179 71

This road is only forty-seven or forty-eight miles in length, and its entire stock subscription was only $380,000, all of which, so far as it could be realized, has long since been spent. During the whole period of its existence the road has never paid the expense of running it, and has only made one payment of surplus earnings over expenses, and that in the month of August, 1870, of $2,000, which was applied for the benefit of private parties, provided for by Act of February 18, 1870, ch. 61, which act was passed by the procurement and at the instance of the said company, the parties provided for being directors or officers of said roads. This act provides for the payment to the parties named of $57,055 out of the earnings of the road, and in the hands of the receiver. The whole road is worth little, if any, over one-half of its indebtedness to your orator. It is not within the bounds of reason to suppose that it will ever pay accruing interest, much less the arrears of interest and the body of the bonds.

Your orator would further show that there were issued to the Nashville and Northwestern Railroad Company bonds as follows:

To V.K. Stevenson, Agent,	Dec. 22, 1859, under Feb. 11, 1852.	$280,000
" "	June 12, 1860, bridge aid........	50,000
To John O. Ewing, Agent,	June 29, 1860, under Feb. 11, 1852.	100,000
" "	August 11, 1860................	130,000
" "	September 14, 1860, bridge aid...	170,000
" "	Oct. 19, 1860, under Feb. 11, 1852.	165,000
" "	Dec. 18, 1860, under Feb. 11, 1852.	190,000
" "	Jan. 27, 1861, under Feb. 11, 1852.	120,000
" "	Feb. 23, 1861, under Feb. 11, 1852.	130,000
" "	April 22, 1861, under Feb. 11, 1852.	120,000
Before the war..............................		$1,455,000

2582

To M. Burns, President,	April 4, 1866, under Jan. 18, 1866...	$275,000
" "	May 12, 1866, under Feb. 11, 1852...	225,000
" "	July 6, 1866, under Jan. 18, 1866...	150,000
" "	July 17, 1866, under May 22, 1866..	75,000
To H. L. Claiborne, Sec.,	Dec. 6, 1866, under Jan. 18, 1866..	50,000
To M. Burns, President,	Jan. 2, 1867, under Dec. 10, 1866...	200,000
" "	March 23, 1867, under Dec. 10, 1866.	25,000
" "	March 27, 1867, under March 7, 1867.	125,000
" "	June 25, 1867, under Dec. 10, 1866..	92,000
To W. P. Innis, Receiver,	Dec. 27, 1867, under Dec. 7, 1867..	100,000
To D. B. Cliffe, Receiver,	July 17, 1868, under Dec. 7, 1867...	43,000
" "	July 27, 1868, under Dec. 7, 1867...	207,000
" "	July 29, 1867, under Dec. 7, 1867...	100,000
" "	July 29, 1868, under Dec. 7, 1867...	100,000

Total bonds................................	$3,222,000.00
Funded interest under November 23, 1865..............	392,850.00
Unfunded interest in arrears..........................	926,279.41
Grand total January 1, 1871..........................	$4,541,129.41

This road runs from Nashville to the Mississippi river at Hickman, a distance of 163 miles, and is an important road in length and connections. But besides its enormous debt to your orator, it is in debt to the United States for rolling stock to the amount, with interest, of over a half a million dollars, to mortgage bondholders over a million of dollars, and a floating debt of several hundred thousand dollars. It is now being run, under a lease, by the Nashville and Chattanooga Railroad Company, and thus far the expenditures have exceeded the income. It has paid neither interest nor sinking fund, nor is likely to do so for years, if ever, and there is no reasonable probability that it will ever, at any time, be able to pay the large arrears of interest due as above.

Your orator would further show that there were issued to the Memphis, Clarksville and Louisville Railroad Company bonds as follows :

25583

March 17, 1858	To George B. Fleece, Agent	$ 20,000	under act Feb. 26, 1856.
Dec. 20, 1858	To Wm. A. Quarles, Pres't	10,000	bridge aid.
June 27, 1859	To Chas. G. Smith, Agent	40,000	bridge aid.
July 9, 1859	To Wm. A. Quarles, Pres't	300,000	under act Feb. 11, 1852.
Oct. 6, 1859	To T. W. Wisdom, Agent	20,000	bridge aid.
Dec. 3, 1859	To Chas. G. Smith, Agent	20,000	bridge aid.
May 1, 1860	To Wm. A. Quarles, Pres't	100,000	under act Feb. 11, 1852.
June 27, 1860	" "	169,000	" Feb. 11, 1852.
July 26, 1860	" "	20,000	bridge aid.
July 26, 1860	" "	40,000	bridge aid.
Sept. 22, 1860	To George B. Fleece	20,000	bridge aid.
Oct. 23, 1860	To Wm. A. Quarles	180,000	bridge aid.
Dec. 5, 1860	To Chas. G. Smith, Agent	20,000	bridge aid.
Feb. 21, 1861	To R. W. Humphreys, Pres't	83,000	under act Feb. 11, 1852.
	Total	$1,042,000	

BONDS SINCE THE WAR.

March 27, 1866	Thos. H. Callaway, Agent	$ 40,000	under act Feb. 8, 1854.
April 14, 1866	G. T. Lewis, Receiver	150,000	" Jan. 18, 1866.
April 19, 1866	G. T. Lewis, Receiver	64,000	" Jan. 18, 1866.
May 8, 1866	G. T. Lewis, Receiver	50,000	" Jan. 18, 1866.
June 13, 1866	G. T. Lewis, Receiver	100,000	" May, 1866.
July 6, 1866	G. T. Lewis, Reeeiver	136,000	" May, 1866.

Total of	$540,000
Bonds before the war	$1,042,000
	$1,582,000
Including interest, see report Comptroller, p. 6	312,600
Interest due to January, 1871	559,525 92
Claims of United States *v.* assumed by State, for	380,756 24
Interest on same to January, 1871	118,913 76
	$2,953,795 92

2584

This road runs from the State line, through Clarksville, to ————, a distance of ——— miles, and is important in forming a link in the line of roads from Louisville to Memphis. The stock amounts to about $700,000, all of which has been collected and used which could be realized. The whole road is not worth more than two-thirds of its indebtedness to the State, if so much. It has paid no part of the interest or sinking fund, and has been run for several years by the Louisville and Nashville Railroad Company. It is hopelessly insolvent, and has itself instituted proceedings in the United States District Court at Nashville to be declared a bankrupt. There is no reasonable prospect of its ever paying accruing interest, much less the large arrears of debt to your orator.

Your orator states that the bonds issued to the McMinnville and Manchester Railroad Company are as follows:

To P. H. Marbury, Pres't.,	July 21, 1855,	under Feb. 11, 1852..	$300,000
" "	July 21, 1866,	" " ..	20,000
" "	Nov. 19, 1866,	" " ..	52,000
" "	April 4, 1866,	under Jan. 18, 1866..	346,000
" "	Jan. 26, 1866,	under May 25, 1868..	54,000
			$772,000
Funded interest			87,360
Unfunded			240,218
			$1,099,578

This road runs from Tullahoma to McMinnville, a distance of ——— miles, and is a mere local branch to the Nashville and Chattanooga Railroad Company. It is hopelessly insolvent, has never paid any interest, and is not likely to pay any.

Your orator shows that the bonds issued to the Winchester and Alabama Railroad Company were as follows:

BONDS ISSUED BEFORE THE WAR.

May 10, 1858	To V. K. Stevenson, Agent,	Act 1856,	$7,000
June 9, “	“ “	Bridge aid,	7,000
July 22, “	“ “	February 11, 1852,	150,000
Dec. 30, “	“ “	Bridge aid,	2,000
Jan. 31‘ 1859,	“ “	February 11, 1852,	111,000
Jan. 21, 1860,	“ “	“ “	136,000
Feb. 23, “	To James R. Bright, Agent	“ “	20,000
Total before the war			$433,000

SINCE THE WAR.

March 10, 1858,	To J. M. Russey, President,	Under July, 1866,	$250,000
July 13, “	“ “	“ “	122,000
April 16, 1867,	“ “	December 10, 1866,	150,000
Dec. 11, “	To D. E. Davenport, Rec'r,	1855-6,	34,000
Jan. 30, 1868,	“ “	Order of Governor,	300,000
			$856,000
As above			433,000
Total of bonds			$1,289,000.00
Funded interest			143,259.00
Interest due to January 1, 1871			359,277.70
Indebtedness to the State			$1,790,536.70

This road runs from Dechard's station on the Nashville and Chattanooga Railroad, through Winchester to Fayetteville, in Lincoln county, a distance of ——— miles. It is a mere local road, without any outlet or connections, and hopelessly insolvent. It has never paid, and will not, in all probability, be able to pay any interest upon the debt to your orator.

Your orator would further state, that the Southwestern Railroad Company was incorporated 1851-2, (see page 462), with powers, etc., Nashville and Chattanooga Railroad Company. Lay dormant until 1865-6, when its charter was revived. See page 295. By act of December 7, 1867, page 14, sec. 4, it was given $30,000.

BONDS ISSUED TO AS SOUTHERN.

June 27, 1868,	S. Parker, President,	Under	Dec. 7, 1867,	*Only*	$300,000
July 12, 1869,	" "	"	Oct. 9, 1852,	"	30,000
Aug. 16, "	J. W. Johnson, Rec'r,	"	"	"	30,000
Sept. 7, "	" "	"	"	"	27,000
Oct. 7, " ch. 53, sec. 532,	" "	"	Feb. 26, '69,	"	31,000
Jan. 25, 1870,	G. G. Dibbrell, Pres't,		Feb. 25, 1856,	"	16,000
Jan. 28, " and '69,	" "		Acts '52, '66	"	69,000
Total					$503,000

Reported worth nothing by Pennebaker, Comptroller. It has paid no interest, and is never likely to pay any.

The Knoxville and Kentucky Railroad Company was incorporated by name of Lexington and Knoxville Railroad Company—1851-2. See page 386 of acts of 1851-2. Name changed 1853-4, page 762, to Knoxville and Kentucky.

By act of 1851-2, given the power of Louisville and Nashville Railroad Company's charter. Passed 9th February, 1850.

Charter amended, or rather remodeled, 1856. See acts of 1855-6, page 434.

City of Knoxville a stockholder in, say $50,000; County of Knox, say $100,000; County of Anderson, say ——; County of Campbell, say ——.

BONDS ISSUED TO BEFORE THE WAR.

May 7, 1860,	To Joseph A. Mabry, Pres't,	Under act of Feb., 1860,	$ 80,000
Nov. 17, '60,	To Joseph A. Mabry, Pres't,	" Feb. 11, '52,	100,000
Amount of before war			$180,000

BONDS TO SINCE THE WAR.

April 27, 1865,	To C. M. McGhee, Pres't,	Under Jan. 18, '66,	$250,000
July 23, 1866,	To R. Craighead, Agent,	" May 22, "	250,000
Jan. 3, 1867,	To C. M. McGhee, Pres't,	" Feb. 11, '65,	110,000
"	" "	" "	20,000
Feb. 14, 1867,	" "	" "	100,000
March 2, "	" "	" Dec. 10, '66,	100,000
April 1, 1867,	To C. A. Mitchell, Agent,	" "	300,000
Oct. 8, "	To C. M. McGhee, Pres't,	" Act of 1852,	110,000
Jan. 8, 1868,	To Joseph A. Mabry, Pres't,	" Act Dec' 7, 1867,	150,000
Jan. 25, 1868.	To Joseph A. Mabry, Pres't,	" By order of Governor,	350,000
Feb. 20, 1868,	To Joseph A. Mabry, Pres't,	" Dec. 7, 1867,	300,000
March 6, 1869,	" "	" Act of 1852,	130,000

Amount of bonds since war	$2,120,000
Amount before as above	180,000
Total of bonds to	$2,350,000
Add to above funded interest	43,200
Interest due 1st January, 1871	422,976
Total	$2,816,176

This road runs from Knoxville to the State line, a distance of ——miles, of which only——miles have been built. It has paid no interest, and is not likely to pay any.

The Cincinnati, Cumberland Gap and Charleston Railroad Company was incorporated 1853-4. See acts of, page 645, with powers, etc., of Nashville and Louisville Railroad Company, as passed 9th February, 1850, page 235.

Amended by act of 1855-6, page 55; also, by act of 1859-60, page 171; sec. 3.

Five hundred thousand dollars granted to by act of 10th of December, 1866, see page 12, sec. 1 of act; also two hundred thousand dollars by act December 7, 1867-8, sec 3, page 14. This railroad comes under sec. 15 of act of December 1867-8.

No bonds were issued before the war, except August 3, 1860, to N. E. Smith, agent, under March 22, 1860, $132,000.

NUMBER OF BONDS ISSUED SINCE THE WAR.

July 19, 1866	To C. E. Carriger, President	$100,000
Aug. 22, "	" " act of 1852	122,000
Dec. 12, "	" " "	100,000
Feb. 24, 1867	" " "	167,000
April 25, "	" " act of Dec. 10, 1866	333,000
Jan. 31, 1868	To M. R. Murrell, Secretary, by order of Governor	100,000
" "	To M. R. Murrell, Secretary, by order of Governor	100,000
May 1, "	To M. R. Murrell, President, 1852	219,000
	Total since the war	$1,241,000
	Add $132,000 before the war	132,000
		$1,373,000

Bonds to as above	$1,373,000 00
Funded interest	31,680 00
Interest to January 1, 1871	252,528 52
Total	$1,657,108 52

The road is 44 miles long; runs from Morristown on East Tennessee and Virginia Railroad to Wolf Creek, and has no connections, and is hopelessly insolvent and worthless.

The Knoxville and Charleston Railroad Company was incorporated February 18, 1852. See acts of 1851–2, page 401, secs. 57, 8, 9, 60 and 1; same powers, etc., as Nashville and Chattanooga Railroad, embraced in acts 1867–8, December 7; see sec. 8, where $150,000 of bonds given. Has been in hands of Receiver for more than two years.

BONDS SINCE THE WAR.

Jan. 3, 1867	To C. M. McGhee, President, under act of Dec. 10, 1866	$ 77,000
April 1, "	To C. W. Jones, President, under act of Dec. 10, 1866	82,000
April 29, "	To C. W. Jones, President, under act of Dec. 10, 1866	100,000

" "	..To C.W. Jones, President, under act of Dec. 10, 1866	41,000
Oct. 8, "	..To C. W. Jones, President, no act given	25,000
Jan. 31, 1858.	" " by order of Governor.	150,000
Feb. 20, " ..	" " act of 1852	50,000
" " ..	" " " "	100,000
" " ..	" " " "	25,000
May 7, " ..	" " act of 1853–4	60,000
	Total of Bonds..	$710,000
Funded interest due January 1, 1871		106,500
	Whole amount	$816,500

The road is——miles long, and not worth half its indebtedness to the State.

The Rogersville and Jefferson Railroad company was incorporated 1851-2. See page 654, acts of ——, by sec. 9; same powers, liabilities, etc., of Nashville and Chattanooga Railroad Company, of acts of 1845–6.

BONDS ISSUED TO BEFORE THE WAR.

Jan. 28, 1859..	To R. G. Fain, President, bridge aid	$ 23,000
July 7, " ..	" " act of 1852	100,000
Aug 1, " ..	" " bridge aid	36,000
	Total before the war	$159,000

BONDS ISSUED TO SINCE THE WAR.

April 24, 1866..	To W. C. Kyle, President, act of 1852..	$ 55,000
May 29, " ..	To W. H. Shepard, Agent, act of Jan. 18, 1866	100,000
Nov. 30, " ..	To C. J. McKinney, Receiver, act of Jan. 18, 1866	41,000
Mar. 28, " ..	To C. J. McKinney, Receiver, act of Mar. 7, 1868	30,000
		$226,000
	As above	159,000
	Total of Bonds	$385,000 00
Funded interest		38,000 00
Interest due January 1, 1871		108,853 20
	Total due	$531,853 20

2590

In hands of Receiver for more than two years, and failed to pay interest. Is only——— miles in length and will never pay interest.

East Tennessee and Western North Carolina Railroad Company was incorporated May 24, 1866; see page 260, 1, 2 and 3, acts of 1865–6. See sec. 23 by which charter of East Tennessee and Virginia Railroad Company, passed January 27, 1848, is made the charter of this company; same rights, etc., see 1847–8, 195; sec. 28 of act of 1847–8 same provision in regard to amendment of charter, by acts of the Directors in Chattanooga Railroad Company. By sec. 10, of act of December 7, 1867-8, page 15 of acts of 1867-8 the East Tennessee and Western North Carolina Railroad gets $100,000. So it is embraced in the provision of sec. 15, of acts of December 7, 1867, for it has never paid its interest—that is, its interest is two years behind; $48,000 of interest is due, and $24,000 the annual amount.

BONDS DRAWN SINCE THE WAR.

April 28, 1868..	To E. Simmerly, President, under Dec. 10, 1866	$150,000
July 30, " ..	To E. Simmerly, President, under Dec. 7, 1867	100,000
June 5, " ..	To E. Simmerly, President, under Dec. 16, 1868	150,000
	Total	$400,000
Interest to Januery 18, 1871		48,000
	Whole indebtedness to State	$448,000

This road runs from————to————, is —miles long, and is insolvent and worthless.

Your orator would now show your Honor that most, perhaps all, of these roads are totally insolvent, unable to pay accruing interest or sinking fund, and in no condition to pay the arrears of interest which have already become past due, and, of course, with no reasonable hope of ever paying the principal of the bonds issued to them. Your orator insists that the failure of these companies to comply with any one of the conditions upon which State aid was extended to them, makes a forfeiture of all their rights under the internal improvement laws, and authorizes your orator to demand a sale of all the property and effects, rights, privileges and franchises of said several companies, the proceeds of sale to be applied—first, to the extinguishment of the debt due to your orator, with interests and costs, and the surplus, if any, to the satisfaction of other debts in the order of their liens. If the sale should produce more than is required to pay the debts, the stockholders would be entitled to the same pro rata. Your orator claims, in any event, priority of satisfaction out of the incomes or sales of said roads for the whole of the indebtedness of said companies as hereinbefore recited, or as the same may be found to be (and your orator reserves the right to correct errors therein, if any), over all other creditors or claimants of said roads of every nature and kind whatsoever. Among the claims which have been set up against said roads, or some of them, are claims for work and labor done upon or for said roads while under the control and management of receivers appointed under the act of 1852, and the acts amendatory thereof; and, in some instances, liens upon parts of the superstructure of said roads, such as trestles and bridges, have been claimed. Your orator insists that these claims, however valid they may be, as between the claimants and the companies, can have no force and effect as against your orator, or its prior rights and lien under the Internal Improvement laws.

The premises considered, your orator prays your Honor that the railroad companies, corporations, and persons mentioned in the caption of this bill as defendants, be made such by proper process, according to the course of the Court. Your orator also prays, that all the respective stockholders of the said railroad companies, the holders of State bonds issued to such companies, the holders of the bonds of the said companies issued by them, and secured by liens, pledges or mortgages of said roads, or any part thereof, or of their property or franchises, and all creditors of said railroad companies, and all persons interested in said roads, be made defendants to this bill by service of process on those named, and by publication as to those whose names and residences are unknown, according to the course of the Court; and that all of the said defendants, or so many of them of the different classes as the Court may deem sufficient to represent all of each class, be required to answer the allegations of this bill on oath. Your orator prays that the process of subpœna or by publication issue, and be made under the Act of December 21, 1870, and require the said defendants to appear at the Special Term of this Court, to be held on the first Monday in March next, and put in such defense to said bill as they may respectively deem proper, under the provisions of the said act; that all proper accounts be ordered and taken as required by said act; that in case any of such railroad companies should decline a contest with your orator in regard to a sale of the State's interest in these roads, a decree may be made accordingly, and the commissioners appointed by the Legislature authorized to proceed at once to sell the said interest, a specific value being put upon the State's interest in each of such roads by the decree in pursuance of the 8th section of said Act of December 21, 1870. Your orator further prays your Honor to make all such rules, orders and decrees, interlocutory and final, as may be deemed necessary in order to a final and proper adjustment of the rights of all the parties, preliminary to a sale of the interest of your orator in said roads. And also to declare the exact amount of indebtedness of each of said companies to your orator, and to define, as may be thought proper, what shall be the rights, duties and liabilities of a purchaser of the State's interest in said roads, or either of them, and what shall be the reserved rights of said companies, stockholders, bondholders, and others respectively, as against said purchasers after such sale, under the existing laws. Your orator also prays that your Honor would make a decision of any agreed case, or question, or matter informally submitted under the provisions of the second section of said act. Your orator also prays your Honor to decree a sale of said road, with all their property, franchises and rights, if necessary or proper upon final hearing, or manifestly for the interest of all parties, and expressly or tacitly assented to by such parties, such sale to be made by the commissioners appointed by the Legislature, the proceeds of sale to be paid to the parties entitled under the orders and decrees of your Honor, or upon the principles settled by such orders and decrees. Your orator prays for all such other, further and different relief as it may be entitled to.

E. H. EWING,
Field January 20,1871, W. F. COOPER, *Sol'rs.*
W. B. REESE,

ORDER OF PUBLICATION.

IN CHANCERY AT NASHVILLE—STATE OF TENNESSEE.

OFFICE CLERK AND MASTER CHANCERY COURT,
Nashville, January 20, 1871.

THE STATE OF TENNESSEE, complainant,

vs.

THE EDGEFIELD AND KENTUCKY R. R. Co. *et als.* defendants.

It appearing from the allegatious of the bill filed in this cause that the names and residences of a number of the stockholders of the defendants, the Edgefield and Kentucky Railroad Company ; the Nashville and Northwestern Railroad Company ; the Memphis, Clarksville and Louisville Railroad Company ; the McMinnville and Manchester Railroad Company ; the Winchester and Alabama Railroad Company ; the Southwestern or Southern Railroad Company ; the Knoxville and Kentucky Railroad Company ; the Cincinnati, Cumberland Gap and Charleston ; the Knoxville and Charleston Railroad Company ; the Rogersville and Jefferson Railroad Company ; the East Tennessee and Western North Carolina Railroad Company, are all unknown ; as also the names and residences of a number of the holders of the bonds issued by the complainant, the State of Tennessee, the before named railroad companies, and also of the holders of the bonds issued by said railroad companies, or any of them ; and also of a number of the creditors of said railroad companies; and that the names and residences of a number of persons interested in said before named roads or railroad companies are also unknown. It is therefore, in pursuance of the provisions of an act of the legislature of the State of

Tennessee, passed on the 21st day of December, 1870, entitled an act to amend the act of 1879, ch. 79, for the sale of the interest of the State in delinquent railroad companies, passed July 1st, 1870, and of the allegations and prayer of said bill in the cause, ordered that all unknown stockholders, holders of the bonds issued by said railroad companies, creditors of said companies, holders of the bonds issued by the State of Tennessee to said railroad company and other persons interested in said several roads or railroad companies before named, enter their appearance herein at a Special Term of said Chancery Court at Nashville, to be held on the first Monday of March, 1871, and that all of said defendants, or so many of them of the different classes as the Court may deem sufficient to represent all of each class, be required to answer the allegations of the bill on oath, and put in such defense to said bill as they may respectively deem proper under the provisions of said act of 21st of December, 1870, or the said bill will be taken for confessed as to them, and set for hearing *ex parte*, and that a copy of this order be published for four consecutive weeks in the *Nashville Union and American* and *Republican Banner*.

A true copy. attest:

NATHANIEL BAXTER, Jr.,
Clerk and Master.

E. H. Ewing,
W. F. Cooper,
W. B. Reese,
Solicitors for Complainant.

2396

STATE OF TENNESSEE.

To the Sheriff of Davidson County—Greeting:

We command you to summons the Edgefield and Kentucky Railraod Company, the Nashville and Northwestern Railroad Company, the County of Davidson, Wm. Connell, Enoch Cunningham, R. C. McNiary, M. Burns, A. H. Hicks, Gustavus A. Henry, the Mayor and City Council of Nashville and John Fritzell, if to be found in your county, to appear before the Chancellor of the Chancery Court at Nashville, at the next court to be held in Nashville, on the first Monday in March, 1871, next, then there to answer the original bill of complainant of the State of Tennessee *v.* the Edgefield and Kentucky Railroad Company *et als.*, and further do and receive what our said Court shall consider in that bhalf; and this you shall in nowise omit under the penalty prescribed by law. Herein fail not, and have you then and there this writ.

Witness, Nathaniel Baxter, Clerk and Master of our Chancery Court, at office, in the Court-house in the city of Nashville, this first Monday in October, 1870, and the 96th year of American Independence.

NATHANIEL BAXTER,
Clerk and Master.
By JAS. WALKER,
Deputy Clerk and Master.

No. 6688*a*.

IN CHANCERY COURT.

State of Tennessee v. *Edgefield and Kentucky Railroad Co. et als.*

Subpoena to answer Davidson County.

Issued January 28th, 1879.

NATHANIEL BAXTER, Jr., C. & M.

Returned execution upon all the within named parties except Gustavus A. Henry, who is not to be found in my county.

B. LANIER, Deputy Sheriff.

The separate demurrer of the Nashville and Northwestern Railroad Company to the bill of complaint of the State of Tennessee filed against said company and other railroad companies, their stockholders, bondholders and creditors, in Chancery Court at Nashville, Tennessee.

This defendant, by protestation, not confessing any of the matters in said bill to be true, demurs thereto, and for cause of demurrer assigns the following:

1st. Because complainant's bill contains no matter of equity whereon this Court can give complainant any relief.

2d. The act of December 21, 1870, authorizing complainant's bill to be filed at this time is unconstitutional and void.

3d. The bill is multifarious.

STATE OF TENNESSEE.

To the Sheriff of Davidson County—Greeting:

We command you to summons the Edgefield and Kentucky Railraod Company, the Nashville and Northwestern Railroad Company, the County of Davidson, Wm. Connell, Enoch Cunningham, R. C. McNiary, M. Burns, A. H. Hicks, Gustavus A. Henry, the Mayor and City Council of Nashville and John Fritzell, if to be found in your county, to appear before the Chancellor of the Chancery Court at Nashville, at the next court to be held in Nashville, on the first Monday in March, 1871, next, then there to answer the original bill of complainant of the State of Tennessee *v.* the Edgefield and Kentucky Railroad Company *et als.*, and further do and receive what our said Court shall consider in that bhalf; and this you shall in nowise omit under the penalty prescribed by law. Herein fail not, and have you then and there this writ.

Witness, Nathaniel Baxter, Clerk and Master of our Chancery Court, at office, in the Court-house in the city of Nashville, this first Monday in October, 1870, and the 96th year of American Independence.

NATHANIEL BAXTER,
Clerk and Master.
By JAS. WALKER,
Deputy Clerk and Master.

No. 6688*a*.

IN CHANCERY COURT.

State of Tennessee v. *Edgefield and Kentucky Railroad Co. et als.*

Subpoena to answer Davidson County.
Issued January 28th, 1879.
NATHANIEL BAXTER, Jr., C. & M.

Returned execution upon all the within named parties except Gustavus A. Henry, who is not to be found in my county.

B. LANIER, Deputy Sheriff.

The separate demurrer of the Nashville and Northwestern Railroad Company to the bill of complaint of the State of Tennessee filed against said company and other railroad companies, their stockholders, bondholders and creditors, in Chancery Court at Nashville, Tennessee.

This defendant, by protestation, not confessing any of the matters in said bill to be true, demurs thereto, and for cause of demurrer assigns the following:

1st. Because complainant's bill contains no matter of equity whereon this Court can give complainant any relief.

2d. The act of December 21, 1870, authorizing complainant's bill to be filed at this time is unconstitutional and void.

3d. The bill is multifarious.

4th. This court has no jurisdiction of the subject matter of the bill, and none of the persons of many of the parties interested therein who are residents of this State and well known to the solicitors of complainant.

Wherefore, and for divers other errors in said bill contained and appearing on the face thereof, this defendant demurs thereto, and it prays the judgment of the court whether it shall be compelled to make any other or further answer to said bill, and it prays to be hence dismissed, with its reasonable costs in this behalf sustained.

JNO. A. GARDNER,
Solicitor.

THE STATE OF TENNESSEE,
vs.
NASHVILLE AND NORTHWESTERN RAILROAD COMPANY.

The answer of Jno. A. Gardner to the bill of complaint of the State of Tennessee, filed in the Chancery Court at Nashville, against the Nashville and Northwestern Railroad Company and other railway companies, their bondholders, stockholders and creditors.

This defendant, saving and reserving all legal and proper exceptions to said bill, for answer thereto, says: That as to the amount of State bonds issued by the complainant to the Nashville and Northwestern Railroad Company, and the dates at which said bonds were issued, he supposes the facts to be truly stated in the bill.

Respondent admits that so far as the complaint undertakes to set out the law applicable to the case it may be done truly, but he insists that much of the law governing the case is not set out in the bill, nor does respondent concur in the deduction drawn from the law as stated. Respondent insists that a *specific* lien was created by the act of the 11th of February, 1852, in favor of the State on each road receiving aid in State bonds under that law, for the payment of *the identical bonds loaned to the company*, and no others, and by a sale of the road the particular bonds it received must be first paid before any part of the proceeds can be lawfully applied to any other purpose. Said lien was not created alone for the benefit of the State, whose bonds were to be issued, but also for the benefit of all those who might become *bona fide* holders of the bonds for a valuable consideration. A sale and delivery of the bonds, by the company to which they were loaned, operated as an equitable transfer of the mortgage to the purchaser of the bonds, and the equitable transfer has followed the bonds into the hands of the present holders, and now belongs to them. The lien was for the indemnification of the State against the payment of the principal of the bonds at maturity. By sec. 5 of said internal improvement act, a special remedy is provided for the State in case any of said companies should fail to pay the bonds. This remedy is not by *sale*, but by sequestration of the earnings and profits of the road by means of a receiver to be appointed by the Governor. By the sixth section of the act, another and a different remedy is given in the event the bonds are not paid at maturity. The remedy is by *sale of the road*, with power conferred upon the court to appoint a receiver to take charge of the road pending the proceeding to sell.

These provisions are fundamental, and are impliedly incorporated into the charter of each company receiving State aid under this act; and constitute essential parts of the contract between the State and the stockholders in these companies, vesting in them a right to the use of their respective roads as a means of paying the bonds at maturity, subject only to the right of the State, under the fifth section, to sequester the profits on default to pay interest.

The power reserved in the twelfth section of the act is expressly to be exercised by the Legislature "in such manner as not to impair the vested rights of the stockholders of the companies."

Your respondent is a stockholder in the Nashville and Northwestern Railroad Company, and is the owner and holder in his own name and right of thirty-five shares, or $3,500, of the stock of said company. Respondent therefore insists that the act of the Legislature under which complainant's bill has been filed, was passed in violation of the latter clause of the twelfth section of the act of the 11th of February, 1852, and of the Constitution of the United States and of the State of Tennessee, and is therefore null and void.

If, however, respondent is in error in the foregoing conclusions, he insists that the road can only be sold for the payment of such bonds, and the unpaid interest thereon, as were *legally* issued to the *company*, and inured to its benefit. He insists that the company is not liable to pay the $100,000 of bonds issued by Wm. G. Brownlow, Governor, to Wm. P. Innis, receiver, mentioned in the bill, nor the $200,000 of bonds expended by D. B. Cliffe, receiver, on the Huntingdon Branch.

Respondent denies, as matter of belief, on information and from his personal knowledge, so far as he has that knowledge, that any one of the loans or bonds extended to the Northwestern Company since the war, has been unanimously petitioned for by the president and directors of said company, or unanimously adopted by said directors; nor was the assent of the stockholders so given to said loans, as in law to bind them to the payment of said bonds, in the judgment of respondent. This respondent, and a number of other stockholders in the Nashville and Northwestern Railroad Company, perhaps a majority in interest—how this is respondent does not profess to know with certainty—never consented to or accepted the $350,000 of bonds to the main trunk, and $200,000 to the Huntingdon Branch, provided by the act of the 7th of December, 1867, ch. 17, nor the other terms of said act.

Whilst your respondent admits that the aggregate indebtedness of the Nashville and Northwestern Company is large, as shown by the statement of the bill, yet he denies that "even under the last management, and making all proper allowance for increased business, (said company) can ever hope to pay the arrears of interest and sinking fund, nor even, perhaps, the whole of the annual accruing interest."

The earnings of said road within twelve months from January, 1870, to January, 1871, increased near one hundred per cent., reaching in the latter month $50,781.90. The condition of the road is much better for business than at any former period. Its business is rapidly increasing, and respondent confidently believes, with prudent management by the lessees, a receiver, or the company, that in a few years it would be able to pay its interest, provide a sinking fund, and pay its bonds at maturity.

Your respondent therefore insists that said company "*can* afford to wait for the chances," and that under the fifth section of the act of February, 1852, it has a *right*, "to wait for the chances" to save the property of the stockholders from sale and ruinous sacrifice.

To encourage a system of internal improvements in this State by the construction of railways then

2604

being inaugurated by the Legislature, on the 22d day of January, 1852, said body passed a law entitlee "an act to authorize and regulate county subscriptions for railroad stock," ch. 117, Pamph. Acts, page 161, under and by virtue of the provisions of which the qualified voters of Weakly County, of which county respondent then was, and still is, a resident and tax-payer, and through which county the Nashville and Northwestern Railroad was then located and has since been built, voted a county subscription of $100,000 to said railroad company.

Said subscription was voted about the year 1857; was paid by a tax upon the taxables of the county in three annual installments. The money was collected and applied to the building of said road. This respondent voted for the said subscription and paid near one thousand dollars of the same on his taxable property in the county. He is now the owner and holder of $1,688.35¾ of certificates or scrip given to him and other tax-payers of said county for their payment on said subscription.

In sec. 8 of said act it is provided, among other things, that "as the said railroad collector shall receive the tax he shall give the person paying a certificate showing the amount, which certificate may be traded, assigned or transferred, and *shall be receivable in payment of either freight or passage* on any road upon which such subscription shall have been expended."

Your respondent insists that under the foregoing provision he has, and all persons similarly situated have, a vested right to pay either freight or passage on said road in said scrip, at its par value, whether said road is being operated by the company, a lessee, receiver, the State, or a purchaser from the State, or under her mortgage. It is an equity created by the payment of the money in favor of the tax-payer, a legal right conferred upon him by the express terms of the law enacted by the authority and with the sanction and approval of the State—the mortgagee of the road, the complainant in the bill—who in asking equity must do equity.

It is insisted that the equity here set up attaches to the property—the road—regardless of who may own or operate it; that it is a vested right which cannot be disturbed or impaired by subsequent legislation, especially by a party who would thus be allowed to take advantage of its own wrong. The foregoing questions raised in this answer are differently presented for your honor's consideration, and the court's judgment upon them respectfully invoked.

And now, having fully and freely answered, respondent prays to be discharged with his cost, etc.

JNO. A. GARDNER.

Personally appeared before me, Sam'l Peebles, a Justice of the Peace of Weakley county, Tennessee, Jno. A. Gardner, and made oath that the facts stated in the foregoing answer as of his own knowledge are true, and those stated on information he believes to be true.

JNO. A. GARDNER.

Sworn to and subscribed March 3, 1871.

S. PEEBLES, *Justice of the Peace.*

DEMURRER OF THE COUNTY OF DAVIDSON.

State of Tennessee
vs.
Delinquent Railroads.

The County of Davidson, by way of protestation, not confessing the matters and facts charged in complainant's bill to be true, as herein alleged, demurs thereto, and for cause of demurrer, assigns the following special grounds of demurrer:

1st. The act of Assembly under which the bill is filed is in conflict with the 6th section of the 4th Article of the Constitution of the State of Tennessee, which requires Chancellors to be elected by the qualified voters of the district to which they are to be assigned.

2d. The said act of Assembly is in conflict with the 8th section of the 11th Article of the Constitution of the State of Tennessee, which inhibit partial laws—and such act of Assembly is not the law of the land.

3d. By the act of Assembly under which the bill is filed, the Court is given the exclusive right to settle and determine the facts between the parties, when in all other causes in the Chancery Court either party may call for a jury.

4th. The said act limits the taking of the account and making report to twenty days, when in all other causes in the Chancery Court the Court is left to its own discretion as to such limit.

5th. The said act limits the time of taking a writ of error in this cause to the Supreme Court to thirty days, when in all other causes in the Chancery Court it is two years from the final decree.

6th. The said act of Assembly under which the bill is filed, impairs the obligation of the contract upon which the subscription of the County of Davidson was made to the Edgefield and Kentucky Railroad Company and the Nashville and Northwestern Railroad Company, and the obligation of the contract between the State of Tennessee and the said two railroad companies, and is in violation of section 20 of our Bill of Rights.

7th. Upon complainant's own showing, the bonds issued to the Edgefield and Kentucky Railroad Company and the Nashville and Northwestern Railroad Company as State aid, under the acts of Assembly in the bill mentioned, are not yet due.

8th. By the contract between the State of Tennessee and the Edgefield and Kentucky Railroad and the Nashville and Northwestern Railroad Companies, a remedy is provided for the failure of such companies to pay the interest on the bonds issued as State aid to such roads, different from the remedy provided in the act of Assembly under which complainant's bill is filed.

9th. Complainant's debt is not a mortgage, and complainant has no right to sell or dipose of its claim, or to put any other person in its shoes, without defendant's consent.

10th. Complainant has no right to enforce its lien before the debt is due on the bonds issued as State aid to the Edgefield and Kentucky and Nashville and Northwestern Railroad Companies mature. And the Court will not take jurisdiction of the matter at this time, simply to enable complainant to ascertain its debt. The bill is prematurely filed.

11th. Upon complainant's own showing, it funded the arrears of interest unpaid that accrued during the pendency of the late civil war, and the interest that had accrued or might, up to the 1st of January, 1868, upon any of the bonds issued under the Internal Improvement act, previous to the 6th May, 1861, by issuing Coupon State Bonds similar to those issued under the act of 1852, and its amendments, and that as early as the latter part of 1860, or the beginning of 1861, the Edgefield and Kentucky Road was put in the hands of a Receiver, under the act of 1852, by the Governor, and has since been in the hands of a Receiver, and that the Nashville and Northwestern had been for several years in the hands of a receiver appointed by the Governor under the act of 1852, and suspended the payment of the sinking fund, and the roads should have been returned to the company.

12th. The bill fails to charge that either the acts of January, 1866, ch. 14, and May 22, 1866, May 24, 1866, was ever accepted by this defendant.

13th. That the bill upon its face shows that when W. G. Brownlow assumed the payment of $130,804.54 for the benefit of the Edgefield and Kentucky Railroad to the United States, for the purchase of Railroad material, machinery, cars, etc., for the use of said road, that such road was then in the hands of a Receiver appointed by the Governor under the act of 1852.

14th. The bill upon its face shows that under the act of December 7, 1867, that the power is given to the Governor, Secretary of State and Comptroller, to sell the railroad tracks, railing, rolling stock, etc., of such roads as bonds were issued to under that and former acts as should fail for two consecutive years to pay the interest that might accrue upon the bonds loaned to them by the State severally.

15th. The bill fails to show that the act of December 7, 1867, was ever accepted by this defendant.

16th. The bill shows that the complainant's debt is a prior lien.

17th. The act under which the bill is filed delegates to the Court and commissioners a power that belongs only to the Legislature

18th. The bill shows that the indebtedness of the Edgefield and Kentucky and Nashville and Northwestern Railroad Company is for a sum certain.

19th. The bill is multifarious in this, it has joined this defendant with various other parties between it and where there is no community of interest.

20th. The bill shows that complainant has authorized the funds of the Edgefield and Kentucky

Railroad Company to be diverted from their true purpose.

21st. The court cannot grant full relief until it can be decided whether the lien belongs to the State or to the bondholders, and this cannot be authoritatively settled in this case, because the foreign bondholders will not be bound by the decree passed on publication.

22d. The bill fails to show who the bondholders are, or that proper steps have been taken to ascertain.

23d. There is no allegation that either the bonds or interest has been paid by complainant.

24th. There is no such allegation as will authorize a discovery. It does not appear that the facts sought to be discovered can be shown by no other person than from the parties of whom the discovery is sought.

25th. The 12th section of the act under which complainant proceeds, is in violation of the 17th section of Article 2 of the Constitution of Tennessee.

26th. And for other causes to be shown upon argument.

DEMOS & MALONE,
BATE & WILLIAMS, } *Solicitors.*
SMITH & BAXTER,

Demurrer filed March 17, 1871.

DECREE, SPECIAL TERM 1871, MARCH 17, 1871.

The State of Tennessee
vs.
The E. & Ky. R. R. Co. *et al.*

In this case the solicitors for the county of Davidson suggested that a large number of the original bonds issued by the State of Tennessee to the Nashville and Northwestern Railroad Company, and to the Edgefield and Kentucky Railroad Company, amounting to several hundred thousand dollars issued to each of said roads under the Internal Improvement Laws, are non-residents of the State of Tennessee, and whose names and residences are unknown, and cannot be ascertained upon diligent inquiry. That such bondholders have been named as parties in the bill, and a publication has been made in the newspaper by the Clerk and Master, but they are informed, believe and so state, that the bill in this case has not been sworn to, and no separate affidavit as to the non-residence of said bondholders or as to the fact that their names and residences are unknown and cannot be ascertained upon diligent inquiry has been made, nor have such facts been made, to appear by the return of any process, and none of said bondholders have appeared in this case or otherwise submitted to the jurisdiction of this Court.

That the fact of the want of such affidavits and returns, and of the non-appearance of said bondholders, can be made manifest by the certificate or report of the Clerk and Master of this Court, and the county of Davidson move the the Court to order that the Clerk and Master certify and report instanter whether the facts as suggested are true or not, and that the demurrer filed by said county be not disposed of until the coming in of said certificate and report. both of which motions were disallowed and refused by the Court, and the Court ordered that the argument upon said demurrer proceed. The Court being of opinion that a defendant who has not submitted to the jurisdiction of the Court, and has filed a demurrer to the jurisdiction of the Court, cannot make a motion on the cause, to all of which action of the Court the said county of Davidson excepted, and it is ordered that said exceptions be spread on the minutes as part of the record in the nature of a bill of exceptions.

DECREE, SPECIAL TERM 1871, MARCH 17, 1871.

THE STATE OF TENNESSEE
vs.
THE E. & KY. R. R. Co. *et al.*

The county of Davidson, by solicitors, presented the report and certificate of the Clerk and Master, which is as follows:

To the Chancellor:

Upon application of the solicitors of the county of Davidson, defendant, I certify that I have examined the records of my office and find that the bill in the above cause has never been sworn to. That no separate affidavit has been filed in my office, that the names and residences of the holders of the bonds issued by the State to the railroad companies, defendants, are unknown, or that they are non-residents of the State of Tennessee. The fact of their non-residence does not appear by the return of any process in the above cause, and I have no knowledge that any of said bondholders have entered their appearance in this cause.

NATHANIEL BAXTER, Jr.,
Clerk and Master.
By JAS. WALKER,
Deputy Clerk and Master.

March 17, 1871.

And moved the Court for a dismissal of the suit for non-prosecution of the bill against said non-appearing bondholders, defendants, which motion is, by the Court, overruled and disallowed. The said county of Davidson then moved the Court for an order that complainants be allowed a reasonable time for to bring said defendants, bondholders, before the Court, after which the bill will be dismissed if said defendants, bondholders, are not brought before the court or enter their appearance within that time, which last motion was also disallowed and refused by the Court, to which action of the Court the defendants, the county of Davidson, except, and it is ordered that its exception be entered of record.

DECREE, SPECIAL TERM, 1871, MARCH 3, 1871.

The State of Tennessee
vs.
The. E. & Ky. R. R. Co. *et al.*

The complainant in the above cause moves the Court to be allowed to file the affidavit of W. B. Reese, one of the counsel of the State, as a ground for the publication made in this cause heretofore as to unknown and absent defendants *nunc pro tunc*, which motion is allowed.

EDWARD H. EAST.

AFFIDAVIT OF W. B. REESE.

W. B. Reese, one of the attorneys and counsel for the State, employed and authorized by the commissioners of the State under the act of the 21st December, 1870, to file the bill in the Chancery Court at Nashville against the delinquent railroad companies in the name of the State of Tennessee, as directed in said act of December 21, 1870, makes oath that he made diligent inquiry and search to ascertain the names of the bondholders of the State bonds, holders of the bonds issued by any of the companies to be proceeded against, and particularly of the bonds of the Memphis, Clarksville and Louisville, and Northwestern railroad companies, and the names of stockholders of any and all of said companies; and that after making all the inquiry he had the time or means to make, he was unable to find the names of any of such bondholders and stockholders other than as stated in the bill as filed in this cause. He made this inquiry and made these investigations before said bill was filed, and informed his associate counsel of this failure before said bill was filed, as he now most distinctly remembers, and it was upon these investigations that the allegations as to unknown parties were made in the bill, and the publication asked and made in this case. The affidavit is now made this 17th of March, 1871, and filed *nunc pro tunc*.

W. B. REESE.

Sworn to before me March 17, 1871.

NATHANIEL BAXTER, Jr.,
Clerk and Master.
By J. WALKER,
Deputy Clerk and Master.

2614
2612

DECREE, SPECIAL TERM, 1871, MARCH 18, 1871.

THE STATE OF TENNESSEE
vs.
THE E. & KY. R.R. Co. *et al.*, and
N. & C. R.R. Co. as lessees of
the N. & N. W. R.R. Co.

By agreement of counsel the judgment *pro confesso* heretofore taken in this cause against the Nashville and Chattanooga Railroad Company as lessees of the Nashville and Northwestern Railroad Company be set aside, and the defendants presented their answer and are allowed to file the same.

ANSWER OF THE NASHVILLE AND CHATTANOOGA RAILROAD COMPANY.

The separate answer of the Nashville and Chattanooga Railroad Company to the bill of complaint filed against it and others by the State of Tennessee in the Chancery Court of Davidson county, Tennessee.

Respondent, reserving all benefits of exceptions, etc., refer the honorable court to a lease filed herewith and marked "Exhibit A," and which was executed pursuant to the provisions of a law passed by the General Assembly of the State of Tennessee.

There is an outstanding indebtedness in favor of said Nashville and Chatannooga Railroad Company for repairs, etc., done to a very large amount under the provisions of the lease aforesaid, all of which has been done since the execution of the said lease and for which it has vouchers to show.

In addition to this there has been paid for the benefit of said Nashville and Northwestern Railroad certain amounts which appear from Exhibit B, filed as a part hereof and made a part of this answer.

Respondent is disinclined to resist any application of the State, so far as it may not be good faith on its part, but is disposed to go outside of the above referred to lease and ask the honorable court to look into the interests of the State and defendant and do what is right and just between them, regarding the advances that have been made under the said lease and also previous indebtedness from the said N. & N. W. R. R. Co. to your respondent. For all of which, in the event there should be a decree in favor of complainant, and he insists there should be an account, and that they should be entitled to full compensation over any pre-existing claims or liens of the State.

Respondent having fully answered, prays that it may be fully dismissed with his costs, etc., etc.

SPURLOCK & MURRAY,
Solicitors for Respondent.

Filed March 23, 1871.

EXHIBIT B TO ANSWER OF N. & C. R.R. CO.

NASHVILLE, TENN., Feb. 1, 1871.

Nashville and Northwestern R.R.
To Nashville and Chattanooga R. R. *Dr.*

1866.			
Sept. 4.	To loan of $20,000		$20,000 00
1867.			
Nov. 27.	To H. L. Claiborne, Sec. and Treas., note		9,127 67
1868.			
Dec. 30.	To balance on open account		1,714 28
1869.			
Dec. 31.	To balance due under the short lease		13,651 04
	To interest paid on bonds of the N. W. R. R. indorsed by the N. & C. R. R. Co.		20,370 00
	To 40 N. and N. W. R. R. bonds of $1,000 each, indorsed by the N. & C. R. R. Co.		40,000 00
	To balance due on account of W. P. Innes, Receiver	$878 73—	
	To balance due on account of D. B. Cliff, Receiver	219 08—	1,097 81
	To rents of shops, offices, etc. from Sept. 15, 1865, to July 1, 1867, being N. and N. W. R. R. proposition as made out by the committees of both roads appointed by their board of Directors		8,958 27
			$114,919 07

Filed March 23, 1871.

EXHIBIT A TO ANSWER OF N. & C. R.R. CO.

A Bill to be entitled an act to accept, confirm, ratify and make obligatory a lease of the Nashville and Northwestern R. R. to the Nashville and Chattanooga R. R. Co.

WHEREAS, At a meeting of the Directors of the Nashville and Northwestern Railroad Company, held in the city of Nashville on the 27th day of October, 1869, E. W. Cole, President of the Nashville and Chattanooga Railroad Company, submitted a written proposition on the part of the Nashville and Chattanooga Railroad Company for a lease to said company of the Nashville and Northwestern Railroad for a term of six years, which proposition was in the words and figures following:

The Nashville and Chattanooga Railroad Company propose to lease the Nashville and Northwestern Railroad for the period of six years upon the following terms and conditions:

It will expend upon the road-bed, superstructures, bridges and trestles, and in the repair and purchase of rolling stock within the next six months the sum of $100,000, and as speedily as possible put the road in as good condition as other connecting roads, and supply it with rolling stock sufficient to meet the requirements of the business of the road in freights and passengers, and of the same quality and character as similar rolling stock of the Nashville and Chattanooga Road, and continue to keep the road in good condition, and the rolling stock in like good order and condition for and during the full term of the lease and until the same is fully ended, and to return the road and rolling stock in like good order and condition at the expiration of the lease, all repairs, improvements and additions to be made at the usual reasonable and customary prices for the time being. The present rolling stock, materials, and personalty of the Nashville and Northwestern Railroad Company on hand, and to be valued by three persons, one to be selected by each of the parties, and they to select a third, and taken by the Nashville and Chattanooga Road at the valuation and returned in kind at the end of the lease upon like valuation.

The road shall continue during the lease to be operated on its present line and upon every part of it without discrimination against any part unless with the consent of the Board of Directors of the Nashville and Northwestern Railroad Company, and the lessee shall so operate as to foster and encourge the local as well as through business. And such and so many trains for the accommodation of freight and passengers shall be run as are usual and customary on roads of similar length and importance, and necessary to perform the business offered.

The tariff rates of through freights and passengers are to be ratably divided between the roads in proportion to the lengths of the two roads to each other or the distances carried on each, and the local earnings are to be credited to the lessor.

The lessor agrees to make no charge for use of tools, rent of shops or yard-room, or pay of yardmen at Nashville during the continuance of this lease. One-third of the salaries of the President, Superintendent, Secretary and Treasurer, Freight and Passenger Agent and Engineer of the Nashville and Chattanaoga Railroad Company shall be paid out of the earnings of the Nashville and Northwestern Railroad, and the share of the lessor of these salaries shall not exceed the following sums: President, $3,000 per annum; Superintendent, $2,000; Secretary and Treasurer, $2,000: General Freight Agent, $500; General Passenger Agent, $500; Engineer, $1,000.

There shall also be paid out of the earnings of the road the salary of an agent to be appointed by the Board of Directors of the Nashville and Northwestern Railroad Company as hereinafter provided to superintend the interest of said company under this lease, which salary is fixed at $——.

No agent or officers shall be employed except such as are necessary to operating the roads, and devote their whole time and attention to the business of the road, and as are usual in such cases, who shall be paid out of the earnings of the road the same compensation which is allowed similar agents and officers of the Nashville and Chattanooga Railroad Company for similar services.

The Board of Directors of the Nashville and Northwestern Railroad Company may elect an agent to hold his office during the pleasure of the board to represent the said company and protect its interest during the lease, whose duty it shall be to give a general supervision to all the business of the road and all transactions under this lease, with the right to have free access at all times to the rolling stock, property and effects used in running the road with a view to ascertaining its condition, and whether any or what repairs are required, and to the books of the business of the two roads so far as they relate to or have any connection with the business or operations under this lease. He shall be consulted as to all expenses ordinary or extraordinary, but without having the right to prevent them if deemed necessary by the lessee. If, however, the agent should dissent from any extraordinary expenses and report the same to the board of the lessor, and that board shall concur in the dissent, the matter shall be suspended until contracting parties have come to some agreement, or the matter arbitrated as hereinafter provided.

The agent shall make a report to the board of the lessor at least once in every three months, or oftener, if necessary or required.

All matters of difference arising under this lease, either as to the operation of the road, the expense incurred, or otherwise, which cannot be amicably adjusted by committees of the two boards, shall be submitted at once to the arbitrament and award of three railroad officers or engineers, one to be selected by each of the parties, and one by these two, whose decision shall be final and binding on the contracting parties.

All depot houses, sidings, buildings and appurtenances of the road shall be returned with the road-bed and rolling stock in good order and condition at the expiration of the lease.

Regular and equal accounts shall be kept by the lessee of all the earnings and expenditures in operating the road, to which the agent above provided for shall have free access, and monthly reports and settlements shall be made between the parties.

The lessee is to have control of the road and of its operations under the lease, and to receive all the earnings of its business, and shall be entitled out of these earnings to pay the salaries as hereinbefore provided, and all the expenses of running said road, and to reimburse itself the money advanced to put the road in good condition, and to furnish rolling stock as herein stipulated, with interest.

Any surplus of earnings after these disbursements shall be paid to the State of Tennessee monthly, at the expiration of each and every month during the term of the lease, to be credited to the interest due or to become due to the State upon the bonds issued to the lessor, and which are a lien by statute upon said road.

If the surplus earnings should, during the term of lease, pay off the arrears of interest due the State, and exceed the interest which may hereafter fall due semi-annually, such excess shall be paid to the lessor or its order.

It is further agreed that no agent or officer of either road shall be allowed to engage in any speculative or business connected, or have anything to do with the transportation or other business of the road.

Signed, E. W. COLE,
Pres. N. & C. R. R. Co.

Whereas, The Board of Directors of said Nashville and Northwestern Railroad Company, at their meeting aforesaid, having duly considered said proposition, recommended its acceptance to the stockholders of said company; and,

Whereas, At a meeting of said stockholders, duly and legally called and held at the city of Nashville on the 28th day of October, 1869, a majority ef them voted in favor of accepting the proposition for said lease as above set forth; and,

Whereas, Said Nashville and Northwestern Railroad is at present in the hands of the State authorities, whereby the assent of the State of Tennessee is made necessary to the consummation of said contracts and to the validity of said lease; and,

Whereas, In the opinion of this General Assembly, it is manifestly to the interest of the State, as well as said railroad companies and the public, that said proposition should be accepted, and said lease approved, ratified and made obligatory on all the parties thereto; therefore,

Section 1. *Be it enacted by the General Assembly of State of Tennessee*, That the above proposition be, and the same is hereby, accepted, and said Nashville and Chattanooga Railroad Company is hereby authorized to take possession of and control of said Nashville and Northwestern Railroad, and the property thereof, according to the terms and conditions of the proposition hereinafter set forth, provided that the said present president and directors of the Nashville and Chattanooga Railroad Company, and their successors in office, before entering upon the discharge of their duties under the foregoing leases, and before taking possession of said Northwestern Railroad, shall first enter into bond with two or more sufficient sureties in the penal sum of one hundred thousand dollars, payable to the State of Tennessee, for the faithful performance of the terms and stipulations of said lease, in each and every particular, and for a prompt and faithful compliance with the terms, provisions and restrictions hereinafter provided by law, which shall be approved by the Governor, Comptroller and Treasurer of the State, and filed in the office of the Comptroller.

SEC. 2. *Be it further enacted*, That the agent provided for in said lease shall be chosen by the Board of Directors of said Nashville and Northwestern Railroad Company, with concurrence of the Governor of the State, whose duty it shall be to report to the Governor as often as he is required by said lease to report to the Nashville and Northwestern Railroad Company, and he shall be regarded as joint agent for said company and the State, and his salary, which shall be one hundred and fifty dollars per month, shall by paid out of the earnings of said Nashville and Northwestern Railroad.

SEC. 3. *Be it further enacted*, That nothing herein contained shall be so construed as to take the Nashville and and Northwestern Railroad out of the provisions of any law or laws that may be passed by the General Assembly of the State, but the said Northwestern Railroad shall be subject to the provisions of such law or laws which may be passed as aforesaid as though this act had never been passed.

SEC. 4. *Be it further enacted*, That the foregoing lease is ratified, subject to the provisions of this act, with the express reservations to the State of the right to terminate the same at any time without notice, by the act of the General Assembly of the State, provided that should the State, or a purchaser from the State, of said Nashville and Northwestern Railroad, demand possession of said road before the Nashville and Chattanooga Railroad has been reimbursed of all necessary and proper expenditures in operating said Northwestern Railroad from the earnings of said road, such excess of expenditures over earnings shall be paid by the State or said purchaser to the Nashville and Chattanooga Railroad Company.

Sec. 5. *Be it further enacted*, That this act shall take effect from and after its passage.

DECREE APRIL TERM, APRIL 15, 1871.

The State of Tennessee
vs.
The Edgerield and Kentucky
Railroad Company *et als.*

The complainant in this case, upon application and good cause shown to the court, is permitted to file its amended and supplemental bill which is done, whereupon the court is pleased to order that the defendants to the original bill, and especially the Memphis. Clarksville and Louisville Railroad Company; the Southwestern Railroad Company; the McMinnville and Manchester Railroad Company; the Nashville and Chattanooga Railroad Company; and Bristol, Skidmore & Co. and G. G. Dibrell, appear and make defense to said amended and supplemental bill on or before the seventh Monday of this term, being the 15th of May, next. It is further ordered that the said seventh Monday of the term be, and the same is hereby, by way of general rule of this court, and by special rule in this particular case, made a rule day of this court for the return of original process or of publication in lieu thereof; and that the process issued on the amended and supplemental bill in this case for new defendants be made returnable to that day; and that the publication which may be made for other defendants in lieu of personal service of process be ordered to be made, and be requiring the said defendants to appear and make defense on the seventh Monday of this term, being Monday, 15th of May next, otherwise the original and amended and supplemental bills will be taken for confessed against them, and set for hearing *ex parte*.

It is further ordered that process of attachment and injunction issue as prayed for in the amended and supplemental bill, and it appearing to the satisfaction of the court from the schedule filed with the petition in bankruptcy of the Memphis, Clarksville and Louisville Railroad Company, and from the bill filed by certain persons claiming to be creditors of that road by debts contracted while the road was being run by receivers against the State commissioners, as mentioned in the amended and supplemental bill, that there are a large number of such claimants, too numerous to all be made defendants to this bill by name, it is ordered that those of such claimants who are specially named in the amended and supplemental bill be made defendants to represent that class of claimants with leave to any other of the said claimants to come in within the given time and make themselves defendants specially if they see proper so to do, and the complainant is not required to make any more of such claimant's parties defendant by name.

The court is also of opinion, and so orders, that this course may be pursued in regard to all the other classes of defendants, made such by the original bill; where they are numerous a few of each class, if their names and residences can be ascertained, being alone required to be made defendants by name as representatives of the whole class. It is further ordered that the court be considered as open at all times for the consideration of the matters and proceedings in this case in conformity with the act of the General Assembly convening it until the said case is fully and finally disposed of.

To the Hon. E. H. East, Chancellor, etc., holding the Chancery Court at Nashville:

THE AMENDED BILL OF THE STATE OF TENNESSEE,

vs.

THE E. & K. R. R. CO., THE MEMPHIS, C. & L. R. R. CO., *et als.*

Your orator would respectfully show your Honor that on the ——— day of ————, 1871, it filed its bill in this honorable court, under the provisions of the act of the 21st December, 1870, against the Edgefield and Kentucky Railroad Company, the Memphis, Clarksville and Louisville Railroad Company, and other delinquent railroads, their stockholders, creditors, etc., which is still pending in this court; that the said Memphis, Clarksville and Louisville Railroad Company has appeared and filed a plea of bankruptcy, which it was afterwards permitted to withdraw, and file a plea of the non rejoinder of proper parties; that this latter plea has been set for hearing and argued on its sufficiency, and a decision has been rendered thereon by the court.

Your orator would further show that in the said original bill it was alleged that the said Memphis, Clarksville and Louisville Railroad Company was hopelessly insolvent, and had instituted proceedings in the United District Court at Nashville to be declared a bankrupt. Your orator would further show that at the time of filing said bill, the papers in said bankrupt proceedings were not on file, having been taken out of the Clerk's office by some person, and could not be referred to with greater particularity. These papers have since been returned to the court, and your orator finds, and so avers, that the application is in due form by written petition, signed and sworn to by the Hon. G. A. Henry, President of the Memphis, Clarksville and Louisville Railroad Company, on the 30th May, 1868. That this petition avers that a meeting of the stockholders of said company was duly and regularly called by the Board of Directors to consider the expediency of filing the said petition to obtain the benefit of the act of Congress establishing a uniform system of bankruptcy throughout the United States; that such meeting was accordingly held, when the said stockholders, by a unanimous vote of all present, instructed their said president to file said petition, and that said petition is therefore filed. The petition further states that the schedules annexed thereto, marked A, and verified by the oath of its president, contains a full and true statement of all its debts; that the schedules annexed, marked B, and verified by the oath of its president, contains an accurate inventory of all its estate, both real and personal, its franchises, and rights, etc. This petition is accompanied by the schedules referred to, and also by certified copies of the meeting of the directory and stockholders of the said company; and the proceedings had at these meetings in relation to the said application in bankruptcy, schedule A commencing with the statement of the indebtedness of the said Memphis, Clarksville and Louisville Railroad Company to the United States, as follows: The petitioner owes debts to the United States Government of about $336,620, as mentioned in Schedule A, No. 2, but it is not prior to the debt due to the State of

Tennessee, and is secured as set forth therein. Schedule A, No. 2, begins with a statement of the bonds of the State of Tennessee, issued to the said Memphis, Clarksville and Louisville Railroad Company, which corresponds exactly in amount with the statement of such bonds in the original bill. Then follows the following clause: "This debt is a lien on the property of the said company, including the stock, grading, bridges, masonry, iron rails, spikes, the whole superstructure and equipments, all depots and depot stations, and for the payment of said bonds and the interest accruing thereon, created by statutes passed by the General Assembly authorizing the issuance. *This debt is therefore secured in toto, to wit:* $1,582,000 *and interest.*" Then follows a statement of the debt to the United States, thus: "United States Government bonds given for the purchase of machinery, cars, etc., $336,620.13. This is a debt contracted by Geo. T. Lewis, Receiver for the Memphis, Clarksville and Louisville Railroad Company, for the purchase of railroad machinery, cars and other material purchased for the use of said road from the United States military railroad department at Nashville, of the United States. This debt has been assumed by the State of Tennessee, and a bond executed for the stock, machinery, etc., purchased as aforesaid by the Governor, as directed by an act passed by the General Assembly of the State, entitled an act to incorporate the Tennessee and Pacific Railroad Company, and for other purposes, passed May 24, 1866. This debt the State of Tennessee claims to be a lien on the railroad company as described above, and is secured to amount of debt." This schedule then mentions the second mortgage bond debt of the company, giving the whole amount thus provided for at $350,000, but stating the specific holders thus:

Jno. P. Ilsby, Wilkesbarre, Penn.	$251,000
Rice, Davis & Co., Memphis, Tenn.	30,000
James Guthrie, Louisville, Ky.	34,000
Persons unknown.	35,000

and adds: "These bonds are secured by a mortgage of the road bed, depots, stations, fixtures, and all other property of said company, subject, however, to the lien of the State of Tennesse for bonds issued to said company, and as the State of Tennessee assents to the lien of the debt of $336,620 due to the United States Government, this question has never been settled, and petitioners are unable to state who has the priority of payment. Said schedule further states that the right of Jno. P. Ilsby, of $110,000 of the bonds claimed by him is contested. And your orator avers that a large part of these bonds were wrongfully and illegally issued, and are not binding on the company, and that all of them were issued and taken with full knowledge of and subject to your orator's statutory and prior lien.

Said schedule closes with the following statement of claim, "Bristol, Skidmore & Co., Albany, New York, $20,000. This is a lien on the Tennessee river bridge, as they assert, but, in fact, it is unsecured."

And your orator avers that this claim is no lien on said bridge, nor any other part of the road or property of the company. Schedule A 3 to the petition contains a list of unsecured claims, amounting in the aggregate to about $350,000. Schedule B 1, to said petition, gives a detailed statement of the real estate and fixtures belonging to said Memphis, Clarksville and Louisville Railroad Company, and schedule B 2, a similar statement of personalty. By these schedules the roadbed of eighty-three miles is valued at $2,540,000;

the other realty, depots, sidetracks, &c., at $44,000; the other personalty, rolling stock, etc., at $274,160.

Your orator would further show that such proceedings were had upon said petition that the said Memphis, Clarksville and Louisville Railroad Company was, by the register in bankruptcy, declared a bankrupt, but no assignee of its property and effects has yet been selected or appointed, nor any assignment of such property and effects actually made.

Your orator herewith files a copy of said proceedings as far as they seem material to the questions involved in this case, marked Exhibit 1, but which need not be copied.

Your orator, in order to meet the views of the court on the plea in abatement for want of proper parties heretofore referred to, but without waiving any of its rights under the original bill, and the publication already made, would further state that it did, before the filing of its said original bill, make, by its solicitor, diligent inquiry to ascertain the names and residences of the individuals constituting the different classes of parties authorized to be made defendants by the act of the Legislature, and undertakes to be made defendants to said original bill by general designation, and was at that time only able to ascertain the names and residences of these of the several classes whose names are specifically given in said bill.

Your orator has since learned, from the schedules to the petition in bankruptcy, now filed as exhibits, that the so-called second mortgage bonds of the Memphis, Clarksville and Louisville Company were then held, or supposed to be held, as hereinbefore recited; but whether these parties are still the holders of said bonds your orator has not, upon diligent inquiry, been able to ascertain with certainty. It learns that some of these bonds have recently, and it believes are now held by G. A. Washington, of Robertson county, and Thomas F. Pettus, of Montgomery county. The mortgage which was made to secure these bonds was made to D. N. Kennedy, of Montgomery county. Your orator finds, also, from the same schedules, that Bristol, Skidmore & Co., who have already come in and made themselves defendants to this suit, are general creditors of said company, and claim a lien for the security of their debt in the Tennessee river bridge; that there were a large number of other general creditors, whose names and residences are mentioned in schedule A, No. 3, then having claims against said company, of the character and description specified in the schedule, but whether they are now creditors or holders of claims your orator has not been able to learn with certainty. One of these claims is said, in the schedule, to be held by the Planters' Bank of Nashville, but upon inquiry your orator is informed by the officers of this bank that the said debt has been paid. Your orator also finds that a bill is on file in this court against the commissioners of the State appointed to sell delinquent roads, and others by a number of persons claiming to be creditors of said road, seeking payment of their claims out of the proceeds of the sale of said road. Your orator asks that your Honor would designate a certain number of these numerous creditors or claimants to be made defendants as representatives of the class of creditors upon whom process may be served, and for whom publication may be made, the creditors themselves being too numerous to be all made defendants by name. Your orator is informed that A. L. Maxwell is one of these creditors, now of Macon, Georgia, who will appear and answer without the necessity of process or publication, the Nashville and Chattanooga Railroad Company, and G. T. Lewis, of Davidson county, are also such creditors. Your orator will mention others of these creditors, and also such creditors in that part of his bill in which process is prayed. Your orator, after diligent inquiry, has not found any of the holders of the State bonds issued to any of the delinquent railroads, except Dempsey Weaver, of Davidson county, Tennessee, who is the holder of one of the bonds issued to the Edgefield and Kentucky Railroad Company, one of the bonds issued to the Memphis, Clarksville and Louisville Railroad Company, and one issued to the Nashville and Northwestern Railroad Company.

Your orator has learned, since filing his original bill, that the McMinnville and Manchester Railroad Company, about the 1st January, 1856, issued its own coupon bonds for about $34,000, ten of which, for $1,000 each, are now held by the Nashville and Chattanooga Railroad Company, which company has already made itself a party defendant to this suit. Your orator has not, upon diligent inquiry, been able to ascertain who are the holders of the residue of these bonds.

Your orator has also learned that the President of the Southwestern Railroad Company still holds some of the State bonds issued to that company, some of which are now in the custody of the Fourth National Bank of Nashville, and that one Asa Faulkner, of Warren county, Tennessee, holds several more of these bonds as collateral security for a debt due to him from said company. The number of the bonds at the Fourth National Bank is stated in a report of the president of the railroad company, made last year, to be seventy-three, and the number held by Asa Faulkner to be twenty, to secure a debt of $2,567.31. Your orator is advised that it is entitled, under the circumstances, to these bonds for its indemnity.

Your orator charges that other of the delinquent railroads may also, in like manner, hold some of the State bonds issued to them respectively, and it calls for a discovery.

Your orator, after diligent inquiry, has not been able to ascertain the names and residences of any of the several classes of parties made defendants as aforesaid, except those mentioned in the original and in this bill.

The premises considered, your orator prays your Honor that it be allowed to file this as an amended and supplemental bill to its original bill; that the defendants named and made parties to the original bill be made parties to this, and required to answer its allegation within a fixed period, and especially that the Memphis, Clarksville and Louisville railroad Company, the Southwestern Railroad Company, the McMinnville and Manchester Railroad Company, the Nashville and Chattanooga Railroad Company, and Bristol, Skidmore & Co., all of whom are now defendants to this suit, be required thus to answer the allegations herein made within a time to be prescribed by the court. Your orator further prays that the Fourth National Bank and Dempsey Weaver, of Davidson county, Asa Faulkner, of Warren county, G. A. Washington, of Robertson county, D. N. Kennedy and Thos. F. Pettus, of Montgomery county, G. G. Dibrill, of White county, and G. T. Lewis, of Davidson county, be made defendants by process of subpœna and copy bill, and A. L. Maxwell, non-resident of this State, and all the individuals embraced in the several classes, who are made defendants to the original bill by general designation, and whose names and residences are unknown and cannot be ascertained after diligent inquiry, as aforesaid, be made defendants by publication for the time and in the mode prescribed by law, and be required to appear and defend by a given day, to be designated by order of this court, Your orator also prays for the State's gracious writ. of attachment and injunction, one or both to issues attaching the State bonds issued to any of the delinquent railroads, and still owned by such road, or in which such road may have an interest, and enjoining the said defendants, and especially the Southwestern Railroad Company, the Fourth National Bank, Nashville, and Asa Faulkner, from disposing of any of said bonds without the permission of the court.

Your orator also prays that the defendant railroads, and their presidents, under oath, and especially the Southwestern Railroad Company, and G. G. Dibrell, President of said company, answer and say whether either of said companies owns any interest in said State bonds, or any of said bonds, and what interest, and to what amount, and where and in whose possession such bonds are. And upon final hearing your orator prays for all the relief sought in the original bill, and such other relief as it might be entitled to.

E. H. EWING,
W. F. COOPER, } *Solicitors.*
W. B. REESE,

Personally appeared W. B. Reese, one of the aforesaid solicitors, and made oath in due form of law that the facts set forth in the foregoing amended and supplemental bill are true to the best of his knowledge, information and belief.

W. B. REESE,
Solicitor.

Sworn and subscribed before me this 15th April, 1871.

NATHANIEL BAXTER, JR.,
Clerk and Master.
By J. WALKER,
Deputy Clerk and Master.

Filed April 15, 1871.

(Order of Publication under Amended and Supplemental Bill.)

STATE OF TENNESSEE,

OFFICE CLERK AND MASTER, CHANCERY COURT.

NASHVILLE, April 15, 1871.

THE STATE OF TENNESSEE, *Complainant*,

vs.

THE EDGEFIELD AND KENTUCKY RAILROAD *et als.*, *Defendants.*

It appearing from the allegations of the original and amended and supplemental bills, filed in this cause, and which are duly sworn to, that the defendants, Bristol, Stedman & Co., and A. L. Maxwell, are non-residents of the State of Tennessee, and that the names and residences of a number of the stockholders of the defendants, the Edgefield & Kentucky Railroad Company; the Nashville & Northwestern Railroad Company; the Memphis, Clarksville & Louisville Railroad Company; the McMinnville & Manchester Railroad Company; the Winchester & Alabama Railroad Company; the Southwestern & Southern Railroad Company; the Knoxville & Kentucky Railroad Company; the Cincinnati, Cumberland Gap & Charleston Railroad Company; the Knoxville & Charleston Railroad Company; the Rogersville & Jefferson Railroad Company; the East Tennessee & Western North Carolina Railroad Company, are all unknown, although diligent inquiry has been made to ascertain the same, as are also the names and residences of a number of the holders of the bonds issued by the complainant, the State of Tennessee, to the before-named railroad companies, and also the holders of the bonds issued by said railroad company, or any of them, and also of a number of the creditors of said railroad companies, and also that the names and residences of a number of persons interested in the said before-named roads or railroad companies, are also unknown, although diligent inquiry has been made to ascertain the same.

It is, therefore, in pursuance of the provisions of an Act of the Legislature of the State of Tennessee, passed on the 21st day of December, 1870, entitled "An Act to amend the Act of 1870, Chapter 79, for the sale of the State's interest in delinquent railroad companies," passed July 1st, 1870; and also in pursuance of a decree rendered by the Chancery Court at Nashville, in the above-entitled cause, rendered on the 15th day of April, 1871, and of the allegation and prayer of the original and amended and supplemental bills in this cause ordered, that said above-named defendants, Bristol, Stedman & Co., and A. L. Maxwell, and all of said unknown stockholders holders of bonds issued by the State to said companies, or of the bonds issued by said companies, creditors of said companies, and other persons interested in the said several roads or railroad companies before named, enter their appearance herein on or before the seventh Monday of the present term of this court, being the 15th day of May next, 1871, said day being a rule day for the return of original processes, and for publication in lieu thereof, by order of the Chancellor of said Court, in pursuance of the law in such cases made and provided, and that all of said defendants, or so many of them of the different classes as the court may deem sufficient to represent all of each class, be required to appear and put in such defense to said bills as they may respectively deem proper, under the provisions of the said Act of 21st December, 1870, or the said original and amended and supplemental bills will be taken for confessed as to them, and set for hearing *ex parte*, and that a copy of this order be published for four consecutive weeks in the Nashville *Union and American* and *Republican Banner*.

A copy. Attest—

Nathaniel Baxter, Jr.,
Clerk and Master.

E. H. Ewing,
W. F. Cooper, } *Solicitors for Complainant.*
W. B. Reese,

STATE OF TENNESSEE.

To the Sheriff of Davidson county—Greeting:

We command you to summon Edgefield and Kentucky Railroad Company, the Nashville and Northwestern Railroad Company, the County of Davidson, Wm. Connell, Enoch Cunningham, R. C. McNairy, M. Burns, A. H. Hicks, Gustavus A. Henry, the Mayor and City Council of Nashville, John Frizzell, the Fourth National Bank of Nashville, Dempsey Weaver, and G. T. Lewis, if to be found in your county, to appear before the Chancellor of the Chancery Court at Nashville, at the present Court to be held at the Court House in Nashville, on the 15th day of May, 1871, next, then and there to answer the original, amended, and supplemental bills of complaint of the State of Tennessee *v.* the Edgefield and Kentucky Railroad Company *et als.*, and further do and receive what our said Court shall consider in that behalf; and this you shall in nowise omit under the penalty prescribed by law. Herein fail not, and have you then and there this writ.

Witness, Nathaniel Baxter, Jr., Clerk and Master of our said Chancery Court, at office, in the Court House in the city of Nashville, this first Monday in April, 1871, and the 97th year of American Independence.

NATHANIEL BAXTER,
Clerk and Master.
By JAS. WALKER,
Deputy Clerk and Master.

No. 6688*a*

IN CHANCERY COURT.

State of Tennessee v. *Edgefield and Kentucky Railroad Co. et als.*

Subpœna to answer Original, Amended and Supplemental Bills.

Issued April 15th, 1871.

NATHANIEL BAXTER, JR., C. & M.

Subpœna returned and execution upon all the within-named defendants except G. T. Lewis, who is not to be found in my county.

CH. LANIER,
Deputy Sheriff.
W. F. COOPER,
E. H. EWING,
W. B. REESE,
Solicitors for Complainant.

2636

ANSWER OF D. WEAVER.

The separate answer of Dempsey Weaver to the bill and amended bill of the State of Tennessee, filed in the Chancery Court at Nashville against the Edgefield and Kentucky Railroad Company, himself and others.

This respondent, for answer to so much of said bill and amended bill of the State as he is advised it is material for him to answer, says: It is true, as alleged, that he is the holder and owner of one of the bonds of the State originally issued to the Memphis, Clarksville and Louisville Railroad Company, and also one of the bonds of the State originally issued by the State to the Nashville and Northwestern Railroad Company, as the numbers and letters show upon comparison with the published statements of the Comptroller of the State of the bonds issued to these companies, and this respondent submits to the Honorable Court the whole question of his rights and lien, if any, in said roads. And now having fully answered, he prays to be hence dismissed.

D. WEAVER.

Sworn to and subscribed
before me, this 10th
day of July, 1871.

H. L. CLAIBORNE,
Justice of the Peace.

DEMURRER OF LEWIS B. PARSONS.

THE STATE OF TENNESSEE

vs.

THE E. & KY. R. R. CO.

In Chancery at Nashville.

The defendant, Lewis B. Parsons, a bondholder of the Nashville and Northwestern Railroad Company, by protestation, not confessing or acknowledging all or any of the matters and things in said bill alleged as to the mortgage therein mentioned, and the bonds therein alluded to as issued by said company to be true in the manner and form therein stated, alleged, and set forth, doth, as a bondholder, demur unto so much and such parts of said bill as relate to the said mortgage executed by said company, and the said bonds issued by said company, and for cause of demurrer showeth the following:

1st. Because the act of 21st December, 1870, is not the general law of the land, but a partial law in this, that the same confers special jurisdiction upon a designated tribunal of a particular cause of one party, to-wit, the State of Tennessee for particular causes of action against other designated parties, and prescribes the mode of procedure in the prosecution of such suit unknown to the previous and then existing general mode of procedure in courts of chancery in the State of Tennessee, and is as such partial law unconstitutional and void.

2d. Because the said act of the General Assembly is unconstitutional and void in this, that the same impairs and destroys the obligation of the contract between the State of Tennessee, the Nashville and Northwestern Railroad Company, and this defendant as a bondholder of said company created by the act of the General Assembly, mentioned in said bill, authorizing such company to issue bonds and give a mortgage to secure the same by the giving of such mortgage and by the issuance of such bonds to this defendant.

3d. Because said act is unconstitutional and void in this, that it attempts to deprive the defendant, as a bondholder of the Nashville and Northwestern Railroad Company, of his property and rights without due process of law in this, that the same substantially institutes a special tribunal for the trial of a particular case, and directs when and how such a special case in that special tribunal shall be brought and prosecuted and prescribed within what time the same shall be decided.

4th. Because the said act is unconstitutional and void in this, that the same creates new rights and remedies as well against this defendant as a bondholder of the Nashville and Northwestern Railroad Company, and as such entitled to the benefit of the mortgage given by said company, as against the said company as mortgagor, and thus violates the Constitution of both the United States and the State of Tennessee by violating the contract between the State of Tennessee, the Nashville and Northwestern Railroad Company, and this defendant as a bondholder.

5th. Because the allegations of the bill disclose the fact that the bonds issued to the Nashville and Northwestern Railroad Company are not yet due, and no right can exist in the State of Tennessee to ask for a sale of the road, etc., for the enforcement of the lien retained for the indemnity of the State until the maturity of the bonds.

6th. Because the State of Tennessee as mortgagor under the special statutory mortgage created under the denomination of a lien has, if any right, the right only to sell such lien or special mortgage, and no right to sell franchises, property rights, etc., of the company which are subject to the rights of the holders of the bonds issued by the State.

7th. Because the right to the benefit of the special mortgage or lien is the right of the holders of the bonds issued to the company, and not of the State of Tennessee, which has no right to enforce such lien of the bondholders against this defendant as a bondholder under the deed of mortgage given by the company.

Wherefore, and for divers other good causes of demurrer appearing in so much and such parts of said bill as aforesaid, this defendant as a bondholder doth demur thereunto, and humbly prays the judgment of this honorable court as to whether he shall be compelled to make any other or further answer to the same.

CAMPBELL & McEWEN,
J. R. HUBBARD,
G. P. THURSTON,
Solicitors for Defendants.

Filed July 7, 1871.

DEMURRER OF A. H. HICKS.

THE STATE OF TENNESSEE
vs.
EDGEFIELD AND KENTUCKY
RAILROAD COMPANY, *et als.*

In Chancery at Nashville.

This defendant, A. H. Hicks, as a bondholder of the Nashville and Northwestern Railroad Company, by protestation, not confessing or acknowledging all or any of the matters and things in said bill alleged as to the mortgage therein mentioned and the bonds therein alluded to as issued by said company, to be true in the manner and form therein stated, alleged and set forth, doth, as a bondholder, demur unto so much and such parts of said bill as relate to the said mortgage executed by said company and the said bonds issued by the said company, and for causes of demurrer showeth the following:

1st. Because said bill is multifarious in this, that it improperly joins distinct and independent causes of action against various defendants having no connections whatever with this defendant nor with each other.

2d. Because the allegations of said bill show that the Nashville and Northwestern Railroad Company was authorized and empowered by an act of the General Assembly to make and deliver the mortgage deed mentioned in the bill, and to issue the bonds therein mentioned, and thereby secure them, and that said company did, pursuant to such act, execute and deliver the mortgage deed and issue the bonds, and the act of December 21st, 1870, is a violation of the contract created by such act of the General Assembly mortgage bonds so enacted by a previous act of the General Assembly of the State of Tennessee, and of the contract evidenced by the bonds issued and held by this defendant, and of his rights under the previous acts of the General Assembly and the said mortgage.

3d. Because that the act of the 21st of December, 1870, is a violation of the Constitution in this, that the same is a partial and not a general law assuming to deprive this defendant, as a bondholder, of his property and of his right under said mortgage, to have the same enforced through the ordinary tribunals of justice in the State through and by the action of a tribunal which had no previous jurisdiction of this particular subject matter, nor of the person of this defendant, as a resident of the State of Tennessee, in the modes and under the forms prescribed by said act.

4th. Because that the said act is unconstitutional in this, that it authorizes and directs the instituting and bringing a particular suit in a designated tribunal by a particular individual, to wit: the State of Tennessee, for particular objects against many and divers persons, legal and actual, in which tribunal, and against which persons, and for which objects the prescribed suit could not be brought in such tribunal independent of such special act of the General Assembly, and authorizes and directs this particular suit to be prosecuted in modes and under rules unknown to the general course of the Courts of Chancery in this State.

5th. Because the act of December 21st, 1870, is an attempt to deprive this defendant, as a bondholder of the Nashville and Northwestern Railroad Company, of his property and rights without due process of law in this, that the same institutes a special tribunal and directs when and how a special case in that special tribunal shall be brought and prosecuted, and prescribes in what time the same shall be decided, and is an infraction of the Constitution of the United States, as well as of the State of Tennessee.

6th. Because said act is unconstitutional in this, that the same creates new rights and remedies as well against this defendant as a bondholder of the Nashville and Northwestern Railroad Company, and as such entitled to the benefit of the mortgage given by said company as against the said company, as mortgagor, and that violates the Constitution as well of the United States as the State of Tennessee by violating the contract between the State of Tennessee and the Nashville and Northwestern Railroad Company, and this defendant, as a bondholder, evidenced by the act of the Legislature authorizing the making of such mortgage and the issuance of such bonds, and by the bonds issued to this defendant.

7th. Because this defendant acquired, by the issuance of the bonds to him, a vested right under the mortgage given by the company to secure the same, and this act of December 21st, 1870, undertakes to divest him of this vested right in a mode previously unknown to the general laws of the State of Tennessee, for which reason the same is a violation of the Constitution.

8th. Because that this act of the 21st of December, 1870, is unconstitutional and void in this, that the same directs the court what kind of a decree to render in the cause, the time in which it shall render such decree, and the form of such decree, and thus assumes and exercises judicial functions in these and in other respects.

9th. Because the allegations of the bill disclose the fact that the bonds issued to the Nashville and Northwestern Railroad Company are not yet due, and no right exists in the State to ask for a sale of the road for the enforcement of the lien retained for the indemnity of the State until the maturity of the bonds.

10th. Because the State of Tennessee, as mortgagee, under the special statutory mortgage created under the denomination of a lien, has, if any, the right only to sell such lien or special mortgage, and no right to sell the franchises, property, rights, etc., of the company which are subject to the rights of the holders of the bonds issued by the State.

11th. Because the right to the benefit of the special mortgage or lien is the right of the holder of the bonds issued to the company and not of the State of Tennessee, which has no right to enforce such lien of the bondholders against this defendant, as a bondholder, under the deed of mortgage given by the company.

Wherefore, and for divers other good causes of demurrer, appearing in so much and such parts of said bill, as aforesaid, this defendant, as a bondholder, doth demur thereunto, and humbly prays the judgment of this honorable court as to whether he shall be compelled to make any other or further answer to the same.

CAMPBELL & McEWEN,
J, R. HUBBARD,
G. P. THRUSTON,
Solicitors for Defendant.

Filed July 7, 1871.

STATE OF TENNESSEE
vs.
EDGEFIELD AND KENTUCKY
RAILROAD COMPANY *et als.*

This cause was further heard this 5th day of July, 1871, before the Hon. E. H. East, Chancellor, upon the bill and demurrer of the Nashville and Northwestern Railroad Company thereto, upon consideration whereof the court is of opinion that the demurrer is not well taken, and doth overrule the same with costs, and order the said defendant to file an answer by the 7th inst.

State of Tennessee
vs.
The Edgefield and Kentucky Railroad Company *et als.*

This cause was further heard on the 6th day of July, 1871, before the Hon. E. H. East, Chancellor, upon the pleading, previous proceedings and proof, and it appearing to the satisfaction of the court that decrees have heretofore been entered in the cases of all the railroad companies made defendants, except the Memphis, Clarksville and Louisville Railroad Company and the Nashville and Northwestern Railroad Company, ascertaining and declaring the amount of the State debt against each of the said several companies for State bonds issued to said roads under the Internal Improvement act of 1851-2, and subsequent acts amendatory thereof, and that said companies are each and all wholly unable to pay the said several debts to the State, or to keep down the interest semi-annually accruing thereon, or to pay any sinking fund to meet the principal of said debt at the maturity of State bonds issued to them as aforesaid; that said several companies are in fact insolvent and unable to comply with the provisions of the said Internal Improvement Laws, designed to secure the payment of said debt, principal and interest, and have no prospect of ever being able to comply with said provisions; and it further appearing that the roads whose debts have thus been ascertained, the East Tennessee and Western North Carolina Railroad Company has declined contest with the State in regard to the sale of the State's interest in its road, and a decree has been rendered accordingly for a sale of such interest by the commissioners at once, that all the residue of said companies except the Southwestern Railroad Company had consented to a sale of their said several roads, with all their rights, privileges and franchises, and decrees have been entered accordingly, preference for a limited time being by such decrees conceded to the said companies respectively, and then to their stockholders, or such of them as chose to join in the purchase to become the purchasers of their several roads at the minimum price fixed by the court in accordance with the act of the 21st December, 1870, ch. 23; and that a decree has been made for a sale of the Southwestern Railroad, it further appearing that it is made the duty of this court by the said act to adjudicate and determine all questions of law and matters of controversy of whatever nature, whether of law or fact, that have arisen or may arise, touching the rights and interests of the State, and also of the stockholders, bondholders, creditors and others in said road, likewise to define, as may be thought proper, what shall be the rights, duties, liabilities of a purchaser of the State's interest in said roads or either of them, and what shall be the reserved rights of said companies, stockholders and others respectively, as against said purchasers after such sale under the existing laws of the State; and it further appearing to the satisfaction of the court that the holders of the State bonds issued by the State to the said several companies are properly made defendants to this suit, and are sufficiently represented by the holders of such bonds as are made defendants by name or have come in and answered. It further appearing that the holders of bonds issued by said several companies and secured by mortgage of the road or its income, or without any security by mortgage, lien or otherwise, are also properly made defendants and represented, that the general creditors of said companies, the stockholders and all other persons interested in said several roads or companies, are also made defendants and represented, including the creditors whose claims were created by or while the roads were being held and managed under receivers appointed under the act of 1851–2, and acts amendatory thereof, and the court being of opinion that the statutory lien or mortgage secured by the said Internal Improvement Law under which State bonds were issued to the said several companies was intended to inure and does inure only to the benefit of the State, and that the holders of said bonds have no right now, and will have none at the maturity of said bonds by way of subrogation or otherwise, under and by virtue of the said several acts, and a lien or mortgage reserved and secured by them to go upon the said several companies, or their roads or property, for the payment of either the principal or interest of their said several estate bonds, but must look exclusively to the State for payment. The court is further of the opinion that neither the State of Tennessee nor any one claiming by, through or under it will have any right to enforce the collection of the principal or interest of the State bonds so issued as aforesaid against any purchasers who may purchase any of said roads, its franchises, etc., under the decree in this cause, either directly or through the commissioners, if such purchaser fully complies with the terms of sale as fixed by the decrees and acts of Assembly or agreed upon with the commissioners.

The court is further of opinion that the lien of the State to the full extent of the debt of the said several companies for the State bonds issued to them severally as aforesaid, and the unpaid interest thereon as ascertained by the decrees in this cause, is *prior imperio* to the claims of all other creditors of said several companies, of every nature and kind whatever, and whether secured by mortgage, pledge, judgment or otherwise, or without any security. The court is further of opinion that the State debt, as ascertained as aforesaid, largely exceeds in every instance the full value of the several roads upon which it is a lien, its rolling stock and other property, rights, privileges and franchises, and that the State may therefor by agreement with the said several companies sell said roads, property and franchises, in satisfaction of their said debts at any price which may be agreed upon, less the amount of said debt, and vest the purchaser other than the companies themselves with a full, perfect and complete title, free from the claims of stockholders, holders of State bonds, creditors of every kind, and of all and every person or persons claiming interest in said company or not. The court is further of opinion that the said several companies and their stockholders who have consented to the decrees of sale as aforesaid, were competent to consent to said decree. That upon a sale being made under said decrees, either to the parties having the refusal for a given time as aforesaid other than the companies themselves or to other parties, the said companies and their stockholders will cease to have any further right, legal or equitable, in and to the property, rights and franchises so sold, and the said purchaser other than the company will take the road, property and franchises, free from all claims whatever, except those of the State reserved by contract of sale and the act under the provisions of which the sale is made.

The court is further of opinion that upon a sale of any of the franchises of either of said railroad companies by the commissioners under the decrees in this cause and of the provisions of said act of the 21st of December, 1870, all the rights, privileges and immunities appertaining to the franchises so sold under its act of incorporation and the amendment thereto, and the general improvement laws of the State and the acts amendatory thereof, shall be transferred and vest in such purchaser, and the purchaser shall hold said franchise subject to all liens and liabilities in favor of the State as now provided by law against the railroad as far as may be necessary to secure the purchase money as aforesaid, and the other rights of the State under the decree in this cause and the said acts of the Legislature.

It is therefore ordered, adjudged and decreed accordingly, and that the rights of the parties and purchasers be adjudged and settled in accordance with the opinion as hereinbefore expressed. Other matters are reserved. It is further ordered that the costs of this cause be paid out of the proceeds of the sale of the said several roads.

The foregoing is a true copy of the decree entered on page 369 of minute book T of my office.

NATHANIEL BAXTER, Jr.,
Clerk and Master.
By J. Walker,
Deputy Clerk and Master.

DECREE MARCH TERM, 1871, JULY 7.

State of Tennessee
vs.
E. & Ky. R. R. Co. *et als.*

Be it remembered that this cause coming on to be further heard this 7th day of July, 1871, before Hon. E. H. East, Chancellor, when upon motion of solicitors for the State, and it appearing to the satisfaction of the court that publication had been made in the Nashville *Union and American* and the *Republican Banner*, two newspapers published in the city of Nashville, and continued for thirty consecutive days before the 15th day of May, 1871, being the seventh Monday of the term, which day was made a rule day of court for the return of all process by order of the Court of Record, and by publication of said order in both of said newspapers for thirty days successively before said 15th day of May, 1871, for the unknown stockholders and holders of the bonds of the State issued to the Nashville and Northwestern Railroad Company and the Memphis, Clarksville and Louisville Railroad Company, and also for the unknown holders of bonds issued by said companies, and the creditors of said companies, and all other persons interested in said railroads, requiring them, the said unknown parties, to enter their appearance or make defense to the bill and amended bill in this cause on or before the 15th day of May, 1871. And it appearing to the court that all of said unknown defendants before referred to have failed to enter their appearance or make defense to said bill and amended bill, it is therefore ordered and decreed that said bill and amended bill be taken for confessed as to them and set for hearing as to them *ex parte*.

STATE OF TENNESSEE
vs.
E. & KY. R. R. CO. *et als*.

Be it remembered that this cause coming on to be further heard this 7th day of July, 1871, before his Honor Edward H. East, Chancellor, etc., in regard to the Nashville and Northwestern Railroad Company, and it appearing to the court that said Nashville and Northwestern Railroad Company have failed within the time given in the decree overruling the demurrer of said Nashville and Northwestern Railroad Company to file an answer to the bill and amended bill of the complainant, but have herein made default, it is therefore ordered by the court that the bill and amended bill of the complainant be taken as confessed as to the said Nashville and Northwestern Railroad Company, and set for hearing *ex parte* as to said company.

ANSWER OF LEWIS B. PARSONS AND A. H. HICKS.

The Answer of Lewis B. Parsons and A. H. Hicks unto the Bill of Complaint of the State of Tennessee
vs.
The E. & Ky. R. R. Co. *et als.*

Exhibited in the Chancery Court at Nashville.

These defendants, saving and reserving to themselves all the advantages of exceptions to said bill, and particularly the advantage of all grounds of demurrer thereto, for answer unto said bill, unto so much and such parts thereof as he is advised is in any wise necessary or material for them to make answer unto, answer and say that they know, of their own knowledge, nothing of the alleged State aid furnished from time to time by the State of Tennessee to the Nashville and Northwestern Railroad Company, and the circumstances under which the same is alleged to have been furnished, and no information specifically in regard to these things beyond the allegation in complainant's bill, and if the allegations of said bill, or any of them in respect to these things, or any of them, can in any wise effect the rights or interests of these respondents, they require of the complainant strict legal proof of all such allegations as to so much and such part of the allegations of said bill as relate to a mortgage given by the Nashville and Northwestern Railroad Company, and the issuance of bonds secured by such mortgage, these respondents say they are the holders and owners of some ——— thousand dollars of bonds issued by said company and secured by the mortgage mentioned in the bill, and became such in good faith under the conviction that the State of Tennessee had authorized their issuance and their being secured by the mortgage.

The act of the General Assembly of the State of Tennessee, incorporating the Nashville and Northwestern Railroad Company, authorized and empowered the company to issue a million of bonds, and to give a mortgage to secure the same, when these respondents were asked to become the purchasers and owners of the bonds now held by them, they were made acquainted with this provision of the company's charter, and with the fact that the bonds had been issued under and in accordance therewith, and were amply secured by such mortgage so given by the authority of the State.

Respondents insist upon their rights, as bondholders, against the State of Tennessee, which so enabled the company to obtain the money of the respondents and to invest such money in the construction of its road.

These respondents are not precisely informed of the exact amount of bonds issued by the State of Tennessee to the Nashville and Northwestern Railroad Company previous to the execution and delivery of this mortgage, and the issuance of bonds held by defendants; but they are informed and believe that the amount so previously issued did not exceed some fourteen hundred thousand dollars—if, indeed, it amounted to so much—and they deny any right of the State of Tennessee to defeat their lien under said mortgage by the subsequent issuance of bonds. The said mortgage operated as they are advised, and insist to secure their rights, as bondholders, from the time of the execution and delivery of the same and the issuance of said bonds, and from that time the State could, as against them, create no further lien by issuing other bonds to the Nashville and Northwestern Railroad Company.

Respondent Parsons is a non-resident of the State of Tennessee; knew nothing of the alleged issuance of other bonds to said railroad company from time to time; had no reliable information thereof, and never, in any way, sanctioned, approved or acquiesced in the issuance of such other bonds.

Each and every allegation of the bill, that the bondholders did so, is, as far as this respondent is concerned, certainly untrue, and he has no knowledge, information or belief of the truth of such allegations as to any of the then mortgage bondholders.

When respondents' attention was, long after they became bondholders, called to the fact of the alleged amount of additional State aid claimed to have been furnished to this company, they must confess that they were greatly surprised to hear it was suggested that the State of Tennessee had issued bonds with almost the same profusion as the autumn winds scatter leaves, and the more especially in view of the fact that there existed already, as the State must been known, a mortgage upon the road, given by the company with the sanction of the State.

Surely the State cannot be permitted to set up and claim, as against the bondholders under this mortgage, these alleged subsequent advances of State aid to the road, and the more particularly in face of the fact that these large alleged subsequent advances do not appear to have much more effect, if any, upon the value of the roads as a property than if they had never been made.

Respondents repeat their denial of any rights, under all the circumstances, of the State of Tennessee to set up and enforce a lien as against them, as a mortgage bondholder, for these alleged subsequent advances.

And if there is in said bill any other statement, allegation or charge which touches, concerns or affects the mortgage mentioned in the bill, and which is not hereinbefore, either specifically admitted or directly denied, such other statements, allegations or charge is untrue, and strict legal proof requires of every allegation of the bill, except such allegations as have been hereinbefore directly admitted, and this defendant having fully answered, pray, etc.

CAMPBELL & McEWEN,
J. H. HUBBARD,
G. P. THRUSTON,
Solicitors for Defendant.

Answer filed July 10, 1871.

ANSWER OF THE COUNTY OF DAVIDSON.

The Separate Answer of the County of Davidson to the Bill Filed in the Chancery Court at Nashville by the State of Tennessee
vs.
E. & Ky. R. R. Co. *et als.*

Respondent, not waiving the benefit of the demurrer heretofore filed by it in this case, and overruled by the court, answering, says:

It admits the passage of the act of the General Assembly of the 11th of February, 1852, ch. 151, and subsequent acts amendatory thereof, and without denying the purpose of them, as given in the bill, prefer that they be allowed to speak for themselves, and that the proper construction should be determined by the court.

It admits, by the 10th section of the original act, the benefit of its provisions was extended to the Nashville and Northwestern Railroad Company, in which respondent is a stockholder, to the amount of $300,000.

It admits that by subsequent acts the extent of State aid was increased, and the time of paying the sinking fund and the per cent. of such fund were charged for the benefit, as was supposed, of the stockholders, but respondent denies that it, as a stockholder, assented to any increase of the State aid or State lien or mortgage after the —— day of ———, 185–, when it became such stockholder in the Nashville and Northwestern Railroad Company. It admits that there was probably some interest in arrears on the bonds properly issued to said company, and that by act 23d November, 1865, ch. 9, all such interest as had accrued or might accrue up to January 1, 1868, was funded, and by subsequent act all the interest that might accrue up to January 1, 1870, was also funded, and respondent is unable to see how the company can be said to be delinquent when its interest was funded up to a point long subsequent to the time when the State took possession of the road and placed the road and all its property in the hands of a receiver appointed by the State.

But, as before stated, respondent denies that it ever accepted any of said acts extending State aid, passed subsequent to its subscription, and it denies that the railroad company accepted them.

The road was in possession of the State, the company had no means of paying the interest or sinking fund, and respondent denies that under a proper construction of the law the company or its stockholders were liable for interest or sinking fund while the road was in the hands of the State.

Respondent denies that said company acquiesced in said act of 1865, or that it received or accepted its benefits; it denies the State aid proposed by the act of January 18, 1866, ch. 14, was secured by said company upon the terms and conditions stated in the bill, or on any other terms or conditions, and therefore it denies that it was received by said company with the full knowledge or assent of respondent, or of any of the other stockholders of said company, or that there was any such construction, knowledge or tacit assent as would in law amount to the same thing.

Respondent admits the 34th section of the charter of the Nashville and Chattanooga Railroad Company is correctly quoted in the bill, but no such claim is found in the charter of the Nashville and Northwestern Railroad Company, and it denies that said company, at a stockholders' meeting or otherwise, ever made any valid acceptance of the act of December 7, 1867, ch. 17, or of the State aid granted by said act.

Respondent denies that said company is in default, beyond the interest due on the bonds when the road was placed in the hands of the receiver, and it is not responsible for any interest that has accrued since that time.

It denies that said company owes the State $4,541,129.41, or anything like that sum. It denies that said company is unable to pay its legitimate debt to the State if it were allowed by the State to get and hold control of its property, but the State has been wearing out the road and its property in the hands of its receivers, and all the while trying to increase the indebtedness by allowing its receiver to squander the earnings of the road and misappropriate the bonds which the State pretended to issue to the road.

The company is not insolvent, as its property would pay all its present debts if it could once get and retain the control of it.

Respondent admits the passage of the act of July 5, 1870, the attempt to sell under it, the ridiculous failure of the attempt to sell the railroads under that act. The passage of the act of December 21, 1870, to amend the former act directing a bill to be filed in this court in the name of the State against delinquent companies.

Respondent does not know how many bonds were issued to said company before the war, and, properly, under the act of February 11, 1852, the bill states them at $1,455,000, but respondent, without denying, cannot admit the fact, as it does not know it to be so. The bonds charged to have been issued since the war, and the interest and sinking fund accruing on such bonds are invalid as against the stockholders of said company, and respondent insists that said road cannot be sold to pay any such bonds. It is true, this is an important road in length and connections, and with anything like fair play on the part of the State, could pay out all its indebtedness.

Respondent denies that the company has forfeited any of its rights under the internal improvement law, or that the State has any right to apply for a sale of its property or effects until the bonds mature, or even to sell the interest of the State under the lien of the mortage.

And, having fully answered, respondent insists that if an account is ordered, the State shall be charged with $1,000,000, it being about a reasonable amount for the use and occupation of the road and its property as a credit on the interest and sinking fund against the company that no interest shall be charged against this company during the war, while the entire governmental department of the State, and its officers were in the Confederate army or its lines, and there was no officer of the State to whom the interest could have been lawfully paid. That the company be allowed a credit of $1,000,000 for all such injury as can be shown to have proximately resulted to the company and its property by the seizure and destruction of its property by the United States on account of the State of Tennessee adhering to the organization known as the Confederate States during the late rebellion, and also for $500,000 for the use of its property by the State during the early part of the war, and, if necessary, it asks that it be allowed to make all proper defenses to protect the rights and interests of the stockholders without being bound in any way by the defense, which the officers of said company may see proper to make or not to make, and particularly does.

Respondent claims the right to rely on the defense that the act 21st of December, 1870, under which the bill in this case was filed, so far as it attempts to authorize this court either to sell the property and effects of the company or of the interest of the State under its lien or mortgage, impairs the obligation of the contract created by the act of 11th of February, 1852, between the State and said railroad company, and between the State and the respondent and the other stockholders of said company, and, therefore, is in violation of art 1, sec. 10, of the Constitution of the United States, providing that no State shall pass any law impairing the obligation of contracts.

And respondents pray to be hence dismissed with its reasonable costs.

DEMOSS & MALONE,
BATE & WILLIAMS,
SMITH & BAXTER,
Solicitors.

Filed July 10, 1871.

DEPOSITION OF WILBUR FOSTER, ENGINEER, etc., IN REGARD TO NASHVILLE AND NORTH-WESTERN RAILROAD.

Question. Will you please examine the statements contained in the depositions and exhibits to the special report made to the Legislature in regard to the Nashville and Northwestern Railroad, and from the condition and assets of the road as therein set forth, and also from your own knowledge of the road and its connections, now and prospective, what in your opinion would be a fair and reasonable price for their road and its property in bonds of Tennessee ?

Answer. I have no means of knowing the value of the Nashville and Northwestern Railroad except from the report of its officer. Exhibit A attached to the deposition of A. L. Landis, before the Legislative Committee, dated March 30, 1870, places the value of said roadway, superstructure, engines and rolling stock at $3,785,650. Major Landis was general agent of the road and was intimately acquainted with its affairs, and I presume his estimate to be correct. Estimating Tennessee State bonds at 70 cents, their present quotation, the value of the road and its property in bonds would be $5,408,071.-43. It is probable, however, that a large amount should be deducted for the cost of putting the road, rolling stock, etc., in proper condition. This amount could only be determined by a careful examination and estimate.

W. F. FOSTER.

DEPOSITION OF JAMES WHITWORTH BY SOLICITOR FOR STATE.

Question. Will you please examine the report of the special committee to Legislature in regard to the Nashville and Northwestern Railroad, and from your own knowledge of its connections and country through which it runs and prospective connections with St. Louis, etc., and say what in your opinion is the value of this railroad and its property and franchises in the bonds of the State of Tennessee ?

Answer. I have examined with some care the report of the special committee and have a pretty fair conception, I think, of the country through which the road passes, and some idea of its prospective connections, and upon these facts I believe the road a valuable one ; that it will always be a road of great trade and travel, and will soon become a paying road to the stockholders, whoever they may be, at a fair price. I am of opinion that no road like this can be built for less than $20,000 to $25,000 per mile, taking into consideration all that it takes to constitute a complete railroad, and that few can be built so cheap as that. I am of opinion this road is worth, and ought to bring in the hands of the State of Tennessee upon the terms proposed, at least three millions of dollars.

JAMES WHITWORTH.

Sworn to before me, this 3d July, 1871.

NATHANIEL BAXTER, Jr.,
Clerk and Master.
By A. B. HAGE,
Deputy Clerk and Master.

Filed July 3, 1871.

THE STATE OF TENNESSEE
vs.
THE E. & KY. R. R. Co. *et al.*

This cause was further heard on this 18th day of July, 1871, before the Honorable E. H. East, Chancellor, upon the bill and amended bill and the demurrer of the county of Davidson as a stockholder of the Nashville and Northwestern Railroad Company thereto, and argument of counsel on both sides, upon consideration whereof the Court is of opinion that the demurrer is not well taken, and doth overrule the same and order the said defendant to answer instanter, to which rulings the said defendant, by its counsel, excepts. And the said county then filed its answer, the State by its counsel agreeing to waive the authentication thereof, by the county seal or oath of the County Judge, and to allow it to have the same force and effect as if formerly authenticated. The State by its counsel then moved to strike out from the said answer as irrelevant and not pertinent to the answer of said defendant as a stockholder of said company so much of the said answer as undertakes to make defense for the company itself; that is to say, so much of the last paragraph on page two as seeks to answer for the company, the first paragraph of page 3, and so much of the second paragraph as undertakes to answer for the company, all of page 4 except the last paragraph, all of page 5 and pages 6 and 7, except so much of the last page as relies upon the violation of the obligation of the contract between the State and the defendant and others as stockholders of said company, which motion, upon argument, was sustained, to which action of the Court the said defendant excepted. And the complainant thereupon set the cause for hearing as to the said defendant upon the bill and answer as thus altered, to which the said defendant also excepted.

Said cause was further heard on the same day by the Chancellor upon the bills and demurrers of A. H. Hicks and Lewis B. Parsons, holders of the second mortgage bonds of the said Nashville and Northwestern Railroad Company, upon consideration whereof the Court is of opinion that the demurrer is not well taken, and doth overrule the same, and require the said defendants to answer instanter, which is done, the complainant by its counsel waiving the affidavits of the defendants thereto upon the said defendants agreeing that the mortgage under which they claim be made an exhibit to the answers and filed as evidence, and that the cause be set for hearing as to them upon the evidence already on file and their answers considered as their depositions, all of which was agreed to.

And thereupon the said cause coming on to be heard on the same day before the said Chancellor upon the previous proceedings, the bill and amended bill, the answer of the county of Davidson, A. H. Hicks, Lewis B. Parsons, John A. Gardner, the Nashville and Chattanooga Railroad Company, Dempsey Weaver, as the holder of a State bond issued to the Nashville and Northwestern Railroad Company, petition of John Shea and others, taken as an answer, other answers filed, if any, of parties claiming an interest in said road, on the order taking the bills for confessed against the said Nashville and Northwestern Railroad Company, and against the respective stockholders of said company who had failed to answer the holders of the bonds issued by the State to said company, the holders of the mortgage bonds issued by said company, the creditors of said company, and against all other persons interested in said company and upon the exhibits and proof and the agreement of parties as above.

And it appearing to the satisfaction of the court that the State of Tennessee did issue to the Nashville and Northwestern Railroad Company the said several bonds in manner and form and for the amounts specified and set forth in detail in the original and amended bills, and that said company is justly indebted to the State of Tennessee as of the first day of January, 1871, in the sum of four million five hundred and forty-one thousand one hundred and twenty-nine dollars and forty-one cents ($4,541,129.41), with the interest which has accrued thereon since that date. It further appearing that the State has a statutory lien or mortgage for the security of this debt prior and superior to all other liens whatsoever and whensoever and howsoever created, and especially to the lien of the second mortgage bondholders by whose mortgage the prior lien of the State for all bonds which might at any time be issued is recognized, and prior and superior to claims of creditors of every class and all claimants of every kind upon the entire road of said company, including the stock, right of way, grading, bridges, masonry, iron rails, spikes, chairs, and the whole superstructure and equipments and all the property owned by said company and necessary for its business, and all depots and depot stations, its franchises and property. It further appearing that said company has never complied with the provisions of the Internal Improvement Laws under which State aid was granted to it by paying the interest upon the bonds issued from time to time as the same fell due, or the sinking fund to meet the principal of the bonds at maturity, but is, and has been for many years, in default, and the arrears of debt are accumulating continually. It further appearing that the plan of appointing a receiver for said road under the provisions of the Internal Improvement acts has been tried, but the expenses have always exceeded the income, and the said road is now being run by the Nashville and Chattanooga Railroad Company as lessee under the company at a heavy loss, the expenses largely exceeding the income. It further appearing that said company accepted the State aid under the act of the 7th December, 1867, and has failed for two consecutive years to pay the interest that has accrued upon the bonds loaned to it. It further appearing that said company is wholly insolvent, without any rolling stock except that purchased from the United States and not paid for, and without any resources for the future or any prospect of meeting past due arrears or even paying accruing interest. And the court being of opinion that the failure of said company to comply with any one of the conditions upon which the State aid was granted to it, and its utter inability to comply with these conditions in the future, have worked a forfeiture of its rights under the Internal Improvement Laws, and authorizes the State to demand a foreclosure of its lien or mortgage by sale of the road with all its property and franchises.

The court is further of opinion that the State is also entitled in the events which have happened to such sale under the act of the 7th of December, 1867. And the court is further of opinion that the State is also entitled at its election to have its debt ascertained and to sell its interest in said road. It is, therefore, ordered, adjudged, and decreed accordingly, and unless the said company shall pay its said debt as aforesaid with interest, within thirty days from this date, the commissioners appointed under the act of the Legislature of the 5th July, 1870, and who for the purpose of executing the decrees of this court by a sale of the delinquent roads in this case, or the State's interest therein, are also made commissioners of this court, any four of whom may act, may proceed to sell the said road, its property, and franchises as aforesaid in the State's interest therein as aforesaid upon such terms as to time and mode of payment as by the said acts of the Legislature of July 5, 1870, and December 21, 1870, they are empowered to do ; and for the purposes of such sale the court, from the proof on file, fixed $3,000,000 as the minimum value of said road, its property, and franchises in the bonds of the State of Tennessee and the coupons of such bonds. They will make report of their proceedings to this court for such further action as may be necessary to complete the same.

It is further ordered, adjudged, and decreed that the rights of the State, the purchasers, the stockholders, and all other parties, are hereby settled and declared in respect to the Nashville and Northwestern Railroad Company, as they have been heretofore adjudged and declared by the decree of this court in relation to the other delinquent companies, defendant, by decree of the 6th July, 1870, entered in minute book T, page 370.

It is further ordered that John Shea and others, who have made themselves parties defendant, and have claims against said Nashville and Northwestern Railroad Company created by the receivers, file their claims on or before the 12th inst., and the Clerk and Master will report the nature and amount thereof on that day. It is further ordered in the case of a sale that the commissioners retain, subject to the orders of the court, or pay into court, a sufficient amount of the bonds and coupons received to cover the demands of said claimants, should it be found by this court that they have a right to be paid out of the proceeds of sale, or to be subrogated to the rights of the State as against said road to the extent of their claims, and all questions of law and fact in reference to their claims are hereby expressly reserved for further hearing.

It is further ordered that the Clerk and Master take and state an account with the Nashville and Chattanooga Railroad Company as lessee of the Nashville and Northwestern Railroad, in which he will charge said company with all such sums as come, or might by reasonable diligence have come, to their hands as lessees, and allow the company all proper credits under the lease, and make report to the next term, until the coming in of which report all questions between said company and the State are reserved.

And upon further hearing of this whole cause on the same day before the Chancellor upon the previous proceedings, pleadings, and proof. It is further ordered that the commissioners appointed by the Legislature be, and they are hereby appointed commissioners of this court, any four of whom may act to make sale of the several roads or the State's interest therein, is decreed with all the powers conferred upon them by the acts of July 5 and December 21, 1870. It is further ordered that the lien of the State continue on said roads until the price is fully paid. It is further ordered that the purchasers of the said roads or of the State's interest therein, be put in possession of the roads and the property bought upon the completion of the sale by the commissioner and the payment of one-fourth of the price, for which purpose writs of possession may issue if necessary. It is further ordered that all the costs of this cause be paid out of the proceeds of sales unless otherwise ordered.

From which decree the defendant, the county of Davidson, prayed and obtained an appeal to the next term of the Supreme Court, at Nashville, which is granted upon giving bond and security for costs which is done.

In making up the transcript, the clerk will copy only such papers and proceedings as relate to the

Nashville and Northwestern Railroad Company, and parties interested in the same.

To the Hon. A. O. P. Nicholson, one of the Judges of the Supreme Court of Tennessee:

Your petitioner, the Nashville and Northwestern Railroad Company, a corporation chartered by the Legislature of Tennessee, would respectfully show that on the 20th January, 1871, the State of Tennessee filed her bill in the Chancery Court at Nashville, against the Edgefield and Kentucky Railroad, against your petitioners and several other railroad companies, and others who were stockholders, bondholders and creditors of said several companies, alleging that said companies were indebted to this State on account of unpaid interest and sinking fund due on the bonds issued by the State under the Internal Improvement Laws in aid of said several companies. The bill claimed that the State had a prior lien on said railroads, with all their property and franchises, and upon the stock of the stockholder, and claimed that the State has the right to sell the property, subject to said lien, to enforce the amount due the State as aforesaid.

Your petitioners appeared by counsel and filed a demurrer setting forth the various points of law relied on to resist the relief prayed for.

And on the 5th July, 1871, the Chancellor overruled said demurrer and ordered petitioner to file an answer by the 7th July, 1871, thus giving petitioner but two days in which to prepare an answer.

Petitioner's president resided at Huntington, in West Tennessee, and of course no answer was filed, and on the 7th July, 1871, and at the same term of the court said bill was taken for confessed as to petitioner, and set for hearing *ex parte.* The county of Davidson, whose counsel happened to be present in court, filed an answer as one of the largest stockholders in petitioner's company, and in said answer substantially denied the equity of the bill, demanded proof as to the amount of bonds issued by the State to petitioner, and claimed certain credits and offsets for the company as against the State, but all such portions of the answer of said company were stricken out by the court as not legitimate defense for a stockholder to make, and as a *pro confesso* had been taken against petitioner, both the company and the stockholders were thus deprived of the benefit of an answer in the cause, and disregarding all such defenses on the mere ground that they had been raised by a stockholder, the Chancellor at the same term and on the next day after the *pro confesso* was taken, proceeded to adjudge that petitioner was indebted to the State, as of the 1st January, 1871, in the sum of $4,541,129.41 with interest from that date, though there was not one word of proof that any bond had ever been issued by the State to petitioner, and though none of the bonds that had in fact been issued were then due, or would be for many years to come; said decree of July 8, also declares that the State has a prior statutory lien upon the entire road, and all its property, rights and franchises, including the stock of the stockholders, to secure the payment of said sum, and unless petitioner paid said sum in *thirty days!!* from the date of said decree, the commissioners appointed under the act of the Legislature of July 5, 1870, were made special commissioners of said court, and were ordered to sell "said road, its property and franchises," or the "State's interest therein," upon such terms as to time and mode of payment as by the act of July 5 and December 21, 1870, they are empowered to do, and upon said sale being made, the purchaser is to be put in possession of the road and its property, for which purpose writs of possession may issue, from which decree the said county of Davidson prayed and obtained an appeal to the next term of the Supreme Court at Nashville, but petitioner was forced to resort to a writ of error, and accordingly on August 6, 1871, filed a transcript of the record in the office of the clerk of the Supreme Court at Nashville for a writ of error.

Petitioner finds from an advertisement in the Nashville newspapers, a copy of which is filed as Exhibit A to this petition, that said commissioners the Hons. R. J. McKinney, A. Wright, F. B. Fogg, D. W. C. Senter, T. H. Butler and Ed. R. Pennebaker have offered to sell petitioner's road with all its franchises and equipments on the 30th September, 1871, at the Capitol in Nashville, at public auction, under said decree, and they will make said sale unless restrained by your Honor.

Petitioner accompanies the petition with a brief of counsel showing the principal grounds upon which they insist that the act of December 22, 1870, under which the decree was made is unconstitutional, both as against petitioner and petitioner's stockholders, and a transcript of so much of said cause as relates to petitioner is filed herewith. Petitioner insists that by virtue of this appeal taken by Davidson county, the whole case, at least so far as the sale of the road was concerned, was transferred to this court, and that said commissioners as officers of the Chancery Court have no right to proceed to execute said decree until it may be heard at the next term of the Supreme Court, and until the grave questions involved are settled by the Supreme Court no one will buy at a forced sale unless it be soms railroad ring who are willing to take the chances, and consequently the road will not bring anything like its full value.

The premises considered, petitioner prays that your Honor may grant writs of supercedeas staying the further execution of the decree ordering the sale of said road and its property and franchises, with special direction that it be served upon said commissioners and upon Hon. E. H. Ewing, W. F. Cooper and W. B. Reese, Esq., who are the counsel of record for the State of Tennessee in said cause.

As in duty bound your petitioner will ever pray, etc.

SMITH & BAXTER,
Solicitors for Petitioner.

Personally appeared Ed. Baxter, solicitor for petitioner, and made oath that the facts stated in the foregoing petition as of his own knowledge are true, and those stated as on an information of others he believes to be true. ED. BAXTER.

Sworn to and subscribed before me 7th September, 1871.

NATHANIEL BAXTER, Jr.,
Clerk and Master.
By JAS. WALKER,
Deputy Clerk and Master.

FIAT OF A. O. P. NICHOLSON.

To the Clerk of the Supreme Court at Nashville:

Upon bond and security for costs being executed by the Nashville and Northwestern Railroad Company, you will issue the writ of supersedeas as prayed for in the two petitions of the Nashville and Northwestern Railroad Company and the county of Davidson.

Given under my hand the 11th day of September, 1871.

A. O. P. NICHOLSON,
Chief Justice, etc.,

BOND.

Know all men by these presents :

That we the Nashville and Northwestern Railroad Company, A. L. Maxwell, A. H. Hicks and L. B. Parsons, principals, and Alvin Hawkins and J. R. Hubbard, sureties, are held and firmly bound unto the State of Tennessee in the penal sum of two hundred and fifty dollars, for the true payment whereof we bind ourselves, our heirs, executors and administrators firmly by these presents, this the 4th day of August, 1871.

The condition of the above obligation is such that whereas the above bound Nashville and Northwestern Railroad Company, A. L. Maxwell, A. H. Hicks and L. B. Parsons have this day filed with the clerk of the Supreme Court at Nashville, a transcript of the record in the case of the "State of Tennessee *v.* The Edgefield and Kentucky Railrohd Company *et als*," from the Chancery Court at Nashville, for a writ of error to the next term of the Supreme Court at Nashville, to the end that the same may be reheard.

Now, if the said Nashville and Northwestern Railroad Company, A. L. Maxwell, A. H. Hicks and L. B. Parsons shall well and truly prosecute their said writ of error with effect, and abide by and perform the orders and decrees of said Supreme Court in the premises, then this obligation to be void, else to remain in full force and effect.

JOSIAH R. HUBBARD,
ALVIN HAWKINS.

COPY OF DECREE—Supreme Court, December Term, 1871.

STATE OF TENNESSEE,
vs.
E. & K. R. R. Co. *et als.*

Be it remembered, That at a Supreme Court of Errors and Appeals, began and held at the Capitol, in the City of Nashville, on the first Monday in December, A. D. 1871, it being the 4th day of December, 1871, for the 5th, 6th, 7th, 8th, 9th, 10th, 11th, and part of the 16th Judicial Circuits. Present: The Hon. Chief Justice A. O. P. Nicholson, and Associate Justices James W. Deaderick, Thomas J. Freeman, Jno. L. T. Sneed and P. Turney—when the following proceedings were had, to-wit:

TUESDAY, DEC. 5, 1871.

Court met pursuant to adjournment, present the Hon. A. O. P. Nicholson, Chief Justice, and Associate Justices James W. Dederick, John L. T. Sneed, T. J. Freeman, and P. Turney, when the following proceedings were had, to-wit:

THE STATE OF TENNESSEE,
vs.
THE E. & K. R. R. Co. *et als.*

In this cause, on the 5th day of December, 1871, the defendant, the Northwestern Railroad Company, appeared in open court by its authorized agent and attorney, dismisses the writs of error and supersede as heretofore granted in its favor, and it is thereupon ordered accordingly. And it is further ordered that said defendant, the Northwestern Railroad Company and its security in the bond for said writs of error and supersedeas, pay the costs of said writs of error and supersedeas, for which execution may issue, the authority for the dismission having been filed in the papers in the cause. It is further ordered that said cause, so far as the Northwestern Railroad Company is concerned, be remanded to the Chancery Court at Nashville, to be there further proceeded in.

OFFICE OF THE CLERK OF THE SUPREME COURT
FOR THE MIDDLE DIVISION OF THE STATE OF
TENNESSEE,
NASHVILLE, August 19, 1879.

I, W. N. Cowden, Clerk of said court, do hereby certify that the foregoing is a true, perfect and complete copy of the decree of said court, pronounced at its December Term, 1871, in the case of State of Tennessee against the Edgefield and Kentucky Railroad Company and others, as appears of record now on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of the court, at office, in the Capitol at Nashville, on this 19th day of August, 1879, and the independence of the United States the 103 year.

{ SEAL. }

W. N. COWDEN,
Clerk.

THE STATE OF TENNESSEE
vs.
E. & K. R. R. Co. *et als.*

This cause came on further to be heard on the 21st of November 1872, before the Hon. E. H. East, Chancellor, etc., upon the previous proceedings and the report of the commissioner.

To the Hon. E. H. East, Chancellor, holding the Chancery Court of Nashville:

The undersigned commissioners, under act of the

General Assembly of the State of Tennessee, and under the orders and decrees of your honorable court to dispose and make sale of delinquent railroads, would respectfully report that on or about the 10th of November, 1871, they made the sale of the Nashville and Northwestern Railroad, its property and franchises, or the State's interest in said road, at the option of the purchasers, to the Nashville and Chattanooga Railroad Company, John M. Bass and his associates, upon the terms and conditions set out in the proposition and acceptance, and the minutes of the Board of Commissioners hereto appended, marked Ex. A, and made part of this report.

They would further report that on the 10th of November, 1871, at a meeting of the Board of Commissioners, at Nashville, the terms of said sale were further modified, as will be seen by a minute of the proceedings also embodied in Ex. A, and made part of this report.

They would further report that on the 3d of January, 1872. at another meeting of the board, it was agreed by the board that in the decree to be entered in this court of the sale of said Nashville and Northwestern Railroad, the rights, privileges and franchises of the said Nashville and Northwestern Railroad Company to build a branch road from Huntingdon to Jackson be specifically transferred to said purchasers and embraced in its purchase, if, in the opinion of the counsel for the State, said privilege fairly and properly belongs and passes under said sale of said railroad without any responsibility on the part of the State, as will appear from a copy of the minutes of the board, also embodied in Ex. A. and made a part of this report.

They would further report that the continual sale, as hereinbefore mentioned, was reported by them to the General Assembly at the first session of the 37th General Assembly, began and held on the first Monday in October, 1871, and, with the report before them, the said General Assembly passed the act of the 16-24 November, 1871, chap. 37, of the printed act of the session authorizing and fully empowering the commissioners, naming them, or a legal quorum of their number, to carry into full effect, on the part of the State, any settlement or adjustment with parties litigant adversely to the State that to them may seem equitable between the parties and advantageous to the interest of the State.

They would further report, by an instrument in writing addressed to these commissioners and signed by John M. Bass for himself and his associates, the commissioners have been notified that said Bass and his associates have transferred their interest in the purchase as aforesaid to the Nashville and Chattanooga Railroad Company, and requested the commissioners to consummate the sale with the Nashville and Chattanooga Railroad Company, and report it accordingly, which instrument is hereunto appended as Ex. C, and made a part of this report.

They further report that the litigation pending at the date of said sale with the stockholders and mortgage bondholders of the Nashville and Northwestern Railroad Company, by writ of error in the Supreme Court of the State, and by bill in the United States Court at Nashville, have been compromised and settled, the writ of error in the Supreme Court of the State dismissed, and the litigation in the United States Court terminated, so that the purchasers and the commissioners are able to consummate the sale.

They further report that the Nashville and Chattanooga Railroad Company have made and settled with the commissioners the first payment and part of the second payment, and have made and executed a bond to the satisfaction of the commissioners for the performance of the conditions of sale and of the deferred payments, which bond is hereto appended, marked Ex. B, and made a part of this report.

They further report that the board, by resolution, also embodied in Ex. A, ordered that a report be made out of said sale of the Nashville and Northwestern Railroad and submitted to the Chancery Court for confirmation.

Now, therefore, in pursuance of the foregoing resolution, the undersigned beg leave to report the sale of the Nashville and Northwestern Railroad, its property and franchises, in accordance with the proposition and resolutions as aforesaid, to the Nashville and Chattanooga Railroad Company, and ask that the sale be confirmed.

JNO. C. BROWN, *Governor.*
ED. R. PENNEBAKER, *Comptroller.*
T. H. BUTLER, *Secretary of State.*
F. B. FOGG,
R. J. McKINNEY.

November 18, 1872.

EXHIBIT A.

OFFICE OF THE COMPTROLLER,
NASHVILLE, October 7, 1871.

The commissioners met at the Comptroller's office at 3 o'clock, P. M., pursuant to adjournment. Present—Hon. R. J. McKinney, F. B. Fogg, D. W. C. Senter, E. R. Pennebaker and T. H. Butler.

A written bid was received from the Nashville and Chattanooga Railroad ——— for the purchase of the Nashville and Northwestern Railroad, its property and franchises, on the State's interest in said road, at the option of the purchasers. The amount bid was $2,400,000 in bonds of the State and coupons of January, 1871, and subsequent coupons attached, subject to the condition that the claim of the Nashville and Chattanooga Railroad Company against the Nashville and Northwestern Railroad Company for expenditures made under the lease of said road, which claim amounts, as of this day, to the sum of $537,000, according to the statement of the Nashville and Chattanooga Railroad Company, should be paid out of the purchase money in bonds of the State, the said Nashville and Chattanooga Railroad Company agreeing to take $700,000 of the bonds to be paid as aforesaid, with the coupons attached, in satisfaction of said debt. This bid was made subject to the affimance of the decree of the Chancery Court by the Supreme Court, and was accepted by the commissioners upon that condition; the purchaser made the first payment in bonds, as agreed upon, and gave bond with satisfactory security for the deferred installments. The commissioners repaid to the Nashville and Chattaooga Railroad Company the bonds received as the first payment as aforesaid in satisfaction of $600,000 of the amount of the claim of said road under the lease. The purchasers also paid $100,000 in bonds, with the proper coupons attached, in part satisfaction of the first deferred installment of the purchase money, and these bonds were paid over to the Nashville and Chattanooga Railroad Company in satisfaction of their balance of their claim under the lease. The payment thus made, and for which proper receipts were given by the parties, are, of course subject to the sale being made final and complete by the affirmance of the Supreme Court of the Chancellor's decree in relation to the Nashville and Northwestern Railroad. If the decrees are reversed, the contract of the sale, and all that has been done under it, will be null and void. The commissioners caused to be prepared a report of their proceedings, to be submitted to the Legislature, and the same was read and approved.

To the Hon. D. W. C. Senter, Governor of the State of Tennessee, Ed. R. Pennebaker, Comptroller of the State of Tennessee, T. H. Butler, Secretary of State, Francis B. Fogg, Robert J. McKinney, Arch. Wright, Commissioners of Tennessee for the sale of delinquent railroads :

Being informed there is a decree of the Chancery Court at Nashville, authorizing you, as commissioners of that Court, in addition to the authority already conferred upon you by the Legislature, to make sale of the interest of the State by way of mortgage or otherwise, in the Nashville and Northwestern Railroad, and also to make sale of the *corpus* of said road, its rolling stock, franchises, etc. The Nashville and Chattanooga Railroad Company and John M. Bass, and his associates, hereby, under the decree of said Court, subject to all its provisions, and under your general power derived from the Legislature, make you the following proposition in regard to the purchase of the State's interest in said road and the *corpus* of said road, with its rolling stock, franchises, etc., viz.:

The said Nashville and Chattanooga Railroad Company and John M. Bass, and associates, will pay the said companies, for the interest of said State and for the *corpus* of said road, its rolling stock, franchises, etc., the sum of $600,000 in bonds of the State, with coupons of January and July, 1871, attached, to be paid immediately, as provided by the decree and acts of the General Assembly upon this subject, with the understanding, however, hereinafter mentioned. The sum of $600,000, payable in one year from this date, in bonds as aforesaid, and subsequent coupons attached. The sum of $600,000, payable in two years, bonds as aforesaid, with subsequent coupons. The deferred payments to be secured by a bond to the satisfaction of the commissioners, with personal security, and a lien upon said property for further security, as provided in said decree.

It is, however, to be understood that, whereas, as lessee on the Nashville and Northwestern Railroad, the said Nashville and Chattanooga Railroad Company has a debt against said first company, which is preferred to all other debts, to the amount, of this day, of $537,000 in currency, which the said Nashville and Chattanooga Railroad Company is willing to merge in its first and second payments in bonds of the State, with coupons as aforesaid, at $700,000 in bonds as aforesaid, for the purpose of this offer, but not otherwise; that this offer is made in view of such mode of payment, and that this debt in bonds as aforesaid, is, as of this date, $700,000, which would produce in currency, at the market price of this date, only $420,000, which sum, to wit, the $700,000, is to be credited accordingly, the purchase to be made subject to the confirmation of the decree of the Chancellor by the Supreme Court, and of this sale also by said Court. The offer is made subject to any claim of the United States upon the rolling stock of said company, for which the State is in no manner to be held responsible. But the State does contract to defend any claims that may be set up against said Nashville and Northwestern Railroad, its *corpus*, franchises and privileges, by the United States Government, and in case the Supreme Court shall not affirm the decree of the Chancellor, this offer is in no manner to affect the right of the Nash-

26879

ville and Chattanooga Railroad Company present and future as lessees of said road. It is further understood and agreed that should the Supreme Court not confirm the decree of the Chancellor to its full extent, but should allow the sale of State's interest alone in said Nashville and Northwestern Railroad, the purchasers aforesaid reserve the right to take the said interest of the State at the same price, of $2,400,000, at their option.

NASHVILLE AND CHATTENOOGA RAILROAD COMPANY.
By E. W. COLE,
President.
JOHN M. BASS,
For himself and his associates.

The undersigned commissioners of the State, for the sale of delinquent railroads, hereby accept the above proposition of the Nashville and Chattanooga Railroad Company and John M. Bass, and associates, subject to the conditions mentioned in said offer, and no others.

R. J. McKINNEY,
FRANCIS B. FOGG,
D. W. C. SENTER,
T. H. BUTLER,
ED. R. PENNEBAKER.

October 10, 1871.

NASHVILLE, Nov. 10. 1871.

Commissioners met at the appointed time. Present—Judge J. R. McKinney, Gov. John C. Brown, T. H. Butler, and Ed. R. Pennebaker, when the following resolution was read and adopted:

WHEREAS, A meeting of the stockholders of the Nashville and Northwestern Railroad Company was held at Nashville, October 26, 1871, at which it was resolved that the writ of error and supersedeas from the Supreme Court of Tennessee in behalf of said company and stockholders should be dismissed upon condition that there should be allowed to the said stockholders five per cent. upon their stock paid in said company in currency of the United States; and

Whereas, It is believed to be expedient and to get rid of difficulties, that so much should be allowed them to effect this object out of the price of said road, to be paid to the State by the Nashville and Chattanooga Railrcad Company; and

Whereas, The commissioners have no present means in their hands to carry out such a compromise, which, however, the commissioners deem advisable; and

Whereas, The said Nashville and Chattanooga Railroad Company is willing to advance the necessary sum for this purpose, say forty-five thousand dollars or thereabouts, upon getting a credit for the amount in bonds of the State at their present market price on its next purchase payment to the State; therefore,

Be it resolved, That the Nashville and Chattanooga Railroad Company, be allowed a credit accordingly upon its making payment to said stockholders as aforesaid, and the dismission of the writs of error and supersedeas obtained by said company and any of said stockholders up to this time.

R. J. McKINNEY,
JOHN C. BROWN,
T. H. BUTLER,
ED. R. PENNEBAKER.

NASHVILLE, Jan. 3, 1872.

The commissioners met pursuant to adjounment. Present—R. J. McKinney, F. B. Fogg, John C. Brown, T. H. Butler, and Ed. R. Pennebaker.

On motion of Francis B. Fogg, it is ordered, on the application of E. W. Cole, President of the Nashville and Chattanooga Railroad Company, the purchasers of the Nashville and Northwestern Railroad, that in the decree to be entered in the Chancery Court at Nashville, transferring the said last-mentioned railroad with its franchises, appurtenances, rolling stock, etc., to the said Nashville and Chattanooga Railroad Company, the rights, privileges and franchises of said Northwestern Railroad Company to build a branch road from Huntingdon to Jackson, be specifically transferred to said purchaser as embraced in its purchase, if, in the opinion of the counsel for the State, said privilege fairly and properly belongs and passes under said sale of said railroad without any responsibility upon the part of the State.

R. J. McKINNEY,
FRANCIS B. FOGG,
JOHN C. BROWN,
T. H. BUTLER,
ED. R. PENNEBAKER.

NASHVILLE, Nov. 16, 1872.

At a meeting of the Railroad Commissioners, assembled by order of the Governor. Present—John C. Brown, Francis B. Fogg, Ed. R. Pennebaker and Thomas H. Butler.

On motion of Gov. John C. Brown, it was ordered that a report be made out of the sale of the Northwestern Railroad and submitted to the Chancery Court for confirmation.

A communication was received from Col. E. W. Cole asking the commissioners to divide the costs incurred by the Nashville and Chattanooga Railroad Company in a compromise with the second mortgage bondholders of the Nashville and Northwestern Railroad Company. On motion it was ordered that the communication be held until a full meeting of the board can be had. The commissioners then adjourned to meet on Wednesday, the 20th inst., at 10 o'clock A. M.

JOHN C. BROWN, *Governor.*
F. B. FOGG.
ED. R. PENNEBAKER, *Sec. and Comp'r.*
T. H. BUTLER, *Secretary of State.*

EXHIBIT C.

To John C. Brown, Governor; Ed. R. Pennebaker, Comptroller; T. H. Butler, Secretary of State; F. B. Fogg, R. J. McKinney and Arch. Wright, Commissioners for the sale of Delinquent Railroads:

The undersigned, for himself and associates, hereby notify your honorable body that he and they have transferred and assigned all their interest under the contract of purchase of the Nashville and Northwestern Railroad Company, made and entered into on or about the 10th October, 1871, to the Nashville and Chattanooga Railroad Company, and they hereby respectfully request and authorize you to consummate said sale with the said Nashville and Chattanooga Railroad Company, and report the same to the Chancery Court at Nashville accordingly.

JOHN M. BASS,
for himself and associates.

Nashville, Nov. 18, 1872.

EXHIBIT B.

These presents witness, that the Nashville and Chattanooga Railroad Company, Jno. M. Bass and his associates, and E. W. Cole, G. M. Fogg, Jno. Porterfield, W. A. Gleaves, N. E. Alloway, Thos. Chadwell, A. L. Landis, J. W. Thomas, Thos. C. Whitsides, Thos. Lipscomb, are held and firmly bound to the State of Tennessee, in the sum of three million dollars, for the payment of which well and truly to be made, they bind themselves, their heirs, personal representatives and successors.

This 7th day of October, 1871.

The conditions of the obligation is such that

WHEREAS, Under the decree of the Chancery Court at Nashville, in the case of the State of Tennessee *v.* the Edgefield and Kentucky Railroad Company and others, and under a contract made with the commissioners appointed by an act of the General Assembly of the State of Tennessee, to sell and dispose of delinquent railroads, the above bound, the Nashville and Chattanooga Railroad Company, and John M. Bass for himself and associates, have this day purchased from said commissioners, the Nashville and Northwestern Railroad Company, its property and franchises, at the option of the purchaser, the interest of the State in said road as set out in the decree in said cause relating thereto, and upon the terms and conditions in said decrees and the contract prescribed, at the price of two million, four hundred thousand dollars, payable in the lawful coupon bonds of the State of Tennessee, with the coupons falling due on the 1st January, 1871, and all the subsequently accruing coupons attached, one-fourth of said bonds, with the agreed coupons, to be paid at the time of purchase—which has been done—and the other three-fourths, with the coupons as aforesaid, to be paid in three equal instalments within one, two and three years respectively from the date of said sale. But with the privilege in lieu of such said coupons of said bonds as may be past due at the time the several instalments fall due, of paying in money an amount equal in amount called for by such coupons, that is, an amount equal to the interest accruing semi-annually upon the remaining three-fourths of said bonds to be delivered thereafter from six months previous to the 1st day of January, 1871, until the whole amount shall be delivered, said interest to be paid as the coupons mature.

Now, therefore, should the Nashville and Chattanooga Railroad Company, Jno. M. Bass and his associates, pay the State of Tennessee the said instalments of purchase money as aforesaid, within the time prescribed as above and payable as aforesaid, and moreover, comply with the terms, stipulation and condition of said decree in said cause and in the contract prescribed, then this obligation to be void, but otherwise to be and remain in full force and virtue.

NASHVILLE & CHATTANOOGA RAILROAD COMPANY,
By E. W. COLE,
[SEAL.] *President.*

E. W. Cole, G. M. Fogg, John Porterfield, W. A. Gleaves, Th. Chaswell, A. L. Landis, J. W. Thomas, T. C. Whitesides, T. Lipscomb, securities.

Which report being seen, heard, and fully understood and not excepted to, is ordered to be in all respects confirmed, and it appearing to the satisfaction of the court that the sale reported has been made in strict accordance with the decree of this court, and the acts of the General Assembly in that behalf. And it further appearing from their admissions in open court that the counsel for the State are of opinion that the right of the Nashville and

Northwestern Railroad Company to build a branch road from Huntingdon to Jackson, fairly and properly passes under the general sale as made and reported without any responsibility on the part of the State in relation thereto. It is ordered, adjudged, and decreed that all the right, title, claim and interest of all the parties to this suit in, and to the Nashville and Northwestern Railroad, its property and franchises, including the right to build said branch road from Huntingdon to Jackson without any responsibility on the part of the State be, and the same are hereby divested out of them and vested in the Nashville and Chattanooga Railroad Company in absolute right, with all the rights and privileges as heretofore determined by the decrees of this court, in this cause, to belong to the purchasers of the road sold thereunder subject to the lien of the State for the purchase money remaining unpaid under the contract of sale, and to such conditions and obligations as are provided for in said contract, if any, and such as may have been stipulated for and undertaken in the proceedings and decrees in this court.

This cause will be retained in court until the purchase money is fully paid, and it the meantime the commissioners will pay the cost out of the funds received or otherwise.

The State of Tennessee
vs.
The E. & Ky. R.R. Co. *et al.*

In this cause A. H. Hicks and others, who, as holders of the mortgage bonds and coupons of the Nashville and Northwestern Railroad Company, and as stockholders of said company, carried this case to the Supreme Court by a writ of error, appear in open court by their counsel, Jos. R. Hubbard, Esq., and say that they have, by order in writing, addressed and delivered to F. C. Dunington, Clerk of the Supreme Court, dismissed their said writ of error, and all process and proceedings sued out therewith or incident thereto, and the costs have been paid, and they agree that the cause be reinstated in this court as if no such writ of error or other process had been sued out. Wherefore it is considered by the court that the cause be reinstated on the docket, and stand in the same plight and condition as at the date of the suing out of said writ of error.

CIRCUIT COURT OF THE UNITED STATES.

SIXTH JUDICIAL CIRCUIT—MIDDLE DISTRICT OF TENNESSEE.

IN EQUITY:

CALVIN AMORY STEVENS and JOHN T. TERRY, on behalf of the holders of Internal Improvement Bonds of Tennessee issued to the NASHVILLE and NORTHWESTERN RAILROAD COMPANY

vs.

THE NASHVILLE and NORTHWESTERN RAILROAD COMPANY and THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY COMPANY.

I, LEWIS T. BAXTER, Clerk of the above named Court, hereby certify that the foregoing is a true copy of the records in the above entitled cause and which are necessary to a hearing in the Supreme Court of the United States, and that the same are prepared according to the request of the solicitors for appellants in this cause. Contained in two volumes marked vol. 1 and vol. 2, and No. 2,459.

[L. S.] In testimony whereof I hereunto subscribe my name and affix the seal of the said Court the 12th day of September, 1881.

LEWIS T. BAXTER,
Clerk.